

## THE SOLICITORS' JOURNAL AND WEEKLY REPORTER.

Vol. 52 of THE SOLICITORS' JOURNAL AND WEEKLY REPORTER will commence on November 2nd, 1907. Annual Subscription, which must be paid in advance: £1 6s.; by post, £1 8s.; Foreign, £1 10s. 4d.

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## The Solicitors' Journal and Weekly Reporter.

LONDON, OCTOBER 26, 1907.

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All letters intended for publication must be authenticated by the name of the writer.

### Contents.

CURRENT TOPICS.....	817	LEGAL NEWS .....	826
FICTITIOUS PAYERS .....	820	COURT PAPERS .....	826
A READING OF THE NEW STATUTES.....	821	WINDING-UP NOTICES .....	827
REVIEWS .....	822	CREDITORS' NOTICES .....	827
NEW ORDERS, &c. ....	823	BANKRUPTCY NOTICES .....	828
LAW STUDENTS' JOURNAL .....	826	PUBLIC GENERAL STATUTES .....	

### Cases Reported this Week.

Davis v. Mayor, &c., of Bromley .....	823
De Moleyns and Harris's Contract, Re .....	824
Morris & Bastert (Lim.) v. Loughborough Corporation .....	824
Nicholson v. Piper .....	823
Stevens v. Stevens .....	825
Taff Vale Railway and Cardiff Union and Radyr Overseers, Re .....	824
The Discoverers Finance Corporation (Lim.), Re.....	825

## Current Topics.

### The End of the Peace Conference.

THE SECOND Hague Conference, if it has not accomplished very much of definite importance, deserves at least to be remembered for the magnificence of the schemes which it discussed. Could only practical means for realizing these schemes have been discovered we should now have a general limitation of armaments, an international court of arbitral justice, and a long list of subjects on which arbitration would be compulsory. All this, however, is relegated to the future, and we have to be satisfied with an international prize court—which will be useless until some nations violate the sentiments of the Peace Conference and engage in war—and certain conventions as to the conduct of maritime war which do not forbid the capture of private property and which leave the enormity of the use of submarine mines practically unchecked. The Conference broke up with mutual congratulations which have not been echoed by the world outside. In the view of the President, its significance lay, not so much in what it had actually done, as in the fact that for the first time representatives of all the States in the world had assembled in order to discuss their common interests, which were those of all mankind. This is something, no doubt, but it is unfortunate that with so many representatives, all actuated, it may be surmised, by the best of intentions, the maintenance of international peace was regarded as of theoretical rather than practical interest; and it may be noted as one of the ironies of empire that our great self-governing colonies, whose traditions and interests are all on the side of peace, had in effect no voice at the Conference. Great Britain can hardly hope to have in the future a representative more capable and more devoted to the cause of peace than Sir EDWARD FRANK. It is to be hoped that our representatives at the next Conference will find that time has removed at least some of the jealousies and difficulties which have made the Conference so futile.

### Threats of Patent Proceedings.

IN *Craig v. Dowding* (Times, Oct. 17th) Mr. Justice KNEEWICH decided two points under section 32 of the Patents Act, 1883, which is re-enacted by section 36 of the Patents Act, 1907, which comes into operation on the 1st of January next. It will be remembered that the section provides that where a patentee threatens any other person with any legal proceedings or liability for infringement, any person aggrieved may bring an action for an injunction and damages, if the alleged infringement was not in fact an infringement; and there is a proviso

that the section is not to apply if the person making the threats with due diligence commences and prosecutes an action for infringement. The first question was what was a threat. The letter containing the alleged threat ran as follows: "The article being sold and advertised by you is regarded by our client as an infringement. We therefore request you to cease advertising and selling the article in question." The court held that this was a threat; that "request" meant require something to be done which must be done, and that it was not necessary in order to constitute a threat to mention legal proceedings. The second question was whether the case had been taken out of the section by the defendant commencing and prosecuting an action for infringement within the proviso. The defendant did commence an action but discontinued it, and it appeared, by reason of certain admissions, that the action could not possibly have succeeded. Under those circumstances the court held that the action, though neither collusive nor dishonest, was a sham, and, therefore, no action had been commenced or prosecuted within the meaning of the proviso. It should be added, as KEKEWICH, J., pointed out, that it has been held that if an action is *bond fide* commenced, it need not be prosecuted to a successful termination; it is enough if it be prosecuted down to the time of discontinuance. In the present case the question whether the action had been prosecuted with due diligence did not arise, since KEKEWICH, J., held that no *bond fide* action within the proviso had ever been commenced.

#### Misprints in Acts of Parliament.

WE REFERRED last week to the mistake in spelling which occurs in the King's printers' copy of the Married Women's Property Act of last session, and we were disposed to regard this as almost a phenomenon, so accurately are the statutes in general "read." We have subsequently, however, come across some instances of more remarkable misprints in Acts of Parliament, which shew how impossible it is, even with the utmost care, to avoid them. One occurs in the Act for the Abolition of Fines and Recoveries, section 53 of which speaks of "the court rolls of the *minor* of which the lands may be parcel," and in section 8 of the Prescription Act, the word "convenient" has obviously crept in instead of the word "easement": see *Laird v. Briggs* (19 Ch. D., at p. 33). A curious mistake occurs also in Lord Tenterden's Act (9 Geo. 4, c. 14), section 6 of which provides that no action shall be brought whereby to charge any person by reason of any representation, &c., "to the intent or purpose that such other person may obtain credit, money or goods *upon*, unless such representation," &c. "The manuscript of the clause," said Lord ABINGER, C.B., in *Lyde v. Bernard* (1 M. & W., at p. 123), "most probably contained the word 'thereupon'; on revising it the author considered that the word was superfluous to express his meaning, and that it might possibly, if it had any effect, rather narrow the construction. He has, therefore, meant to strike it out, but has not carried his erasure with sufficient force through the latter part of the word. The printers of Bills for the two Houses," continued the Chief Baron, "seldom commit an error on the side of omission. Everything which is not beyond doubt erased in manuscript is sure to be served up in print." It is stated that the print of the Education Act, 1891, which was first issued was withdrawn and a new print substituted by the Queen's printers (Hardcastle on Statute Law, 2nd ed., p. 470). This must presumably have been owing to some printers' errors in the first issue.

#### The Counsel to the Speaker.

THE APPOINTMENT of a successor to Sir EDWARD CHANDOS LEION, who has resigned the office of Counsel to the Speaker of the House of Commons, has caused more than ordinary attention to be given to the duties of this officer. The Speaker's counsel was originally appointed to assist Mr. Speaker generally on any legal questions coming before him, and to discharge certain other duties in accordance with the report of a Select Committee of 1836. Since 1851 he has been regularly associated with the Chairman of Ways and Means to assist in the examination of private Bills. He has also to give his assistance to the "Referees of the House upon private Bills," in adjudicating upon formal objections on the part of promoters to petitions against a

private Bill, and upon the petitioner's right to be heard before the committee appointed to deal with the Bill. Since the commencement of their jurisdiction in 1865, the Referees have endeavoured, as far as possible, to reduce into a system the principles and precedents regarding the *locus standi* of petitioners, and the subject is one of interest and difficulty. Copies of every Bill, as originally deposited, are laid before the Speaker's counsel, and it is his duty to assist the Chairman of Ways and Means in calling the attention of the House, and also of the chairman of the committee, on every opposed Bill to all points which may appear to him to require it. Objection has often been made to an amendment of the general law by a private Bill. The decisions have established that in estimating the damages under Lord Campbell's Act a deduction must be made in respect of any money payable under insurance policies. These decisions were supposed to be calculated to prevent people from effecting insurances against accident, and a private Act—the Railway Passengers' Assurance Act, 1864—was obtained providing that no contract of the company, nor any compensation received by virtue of it, should prejudice any claim under Lord Campbell's Act. Other companies have since followed this example, but we have reason to believe that similar attempts to amend the general law by private Acts will be discouraged.

#### Christmas Boxes and the Prevention of Corruption Act.

THE PROVISIONS of the Prevention of Corruption Act, 1906, appear to have caused some heart-searching among tradesmen as to the giving of Christmas boxes. An esteemed correspondent has forwarded us an announcement from a local newspaper, which, under the heading "The Prevention of Corruption Act, 1906," intimates that certain tradesmen of the district have decided to abolish the system of giving Christmas boxes to their "customers" in the future. We cannot pretend to an intimate acquaintance with the etiquette of such gifts between tradesmen and their customers, but if they prevail, there is certainly no reason in the Act of last year why they should be stopped. That Act is most carefully drafted so as to apply only where there is the relation of principal and agent, and it punishes the corrupt acceptance by the agent, or the corrupt giving to the agent, of any gift as an inducement or reward for doing anything in relation to his principal's business. For the Act to apply, therefore, there must be three parties—a principal and an agent, and a third person who corruptly influences the agent. The announcement referred to above is obviously wanting in this respect, and if the tradesmen have been in the past anxious to secure their customers' business by a little rebate or discount at Christmas time, in the form of a turkey or otherwise, the wisdom of Parliament has nothing to say against the transaction. We fear, however, that we take the authors of the announcement too literally. These gifts may not be, as the announcement would imply, gifts from tradesman to customer, and our experience unfortunately does not suggest that such gifts are made. It is possible that by a slip the reference to the customers' servants has been omitted, and if this is restored, the necessary three parties are present and the possible application of the Act is obvious. Tradesmen who have been in the habit of making presents to their customers' servants, with a view to covering up past shortcomings or preserving the custom in the future, would doubtless now be sailing very near the wind in continuing such gifts, and their real safety lies in the fact that a prosecution cannot be instituted without the consent of the Attorney-General. In fact, however, there is probably very little leaven of corruption in tradesmen's Christmas boxes, and though the practice is not to be commended, we doubt whether the Act need put a stop to it.

#### American Railways.

THE RECENT speeches of President ROOSEVELT have caused much uneasiness among the directors of American railways, and it appears to be generally supposed that he is about to introduce into the Legislature a measure of the most revolutionary description with regard to the regulation of rates and fares on the lines of railway in the different States. It may not be generally known that English traders possess means of redress against unequal



rates and charges upon a railway which are denied to their brethren on the other side of the Atlantic. No general legislation is to be found in the United States corresponding to that in the Railways Clauses Act, 1845, and the Railway and Canal Traffic Act, 1854, prohibiting railway companies from giving any undue or unreasonable preference or advantage in favour of any particular person or company or any particular description of traffic. It is a general matter of complaint among the farmers and other consignors of goods that they are compelled by the railway companies to pay excessive freights and charges in respect of the grain and stock sold by them, and it appears to be admitted that they cannot recoup themselves for this excess by adding the amount to the price of the produce. The companies also exercise discrimination in favour of certain persons and places, and whenever a rebate is granted on a particular class of merchandise it is almost invariably equivalent to the grant of a monopoly in the use of the railway to the persons or corporations enjoying the rebate. These rebates are said to have materially assisted the different trusts in the conduct of their business. With regard to the amount of the rates and fares the farmers and consignors urge that the amount ought to be regulated by a fair return on the cost of the construction and maintenance of the railway, but that they are unduly increased for the purpose of paying dividends on watered stock. It is common knowledge that the railroads of the Western States have been constructed and equipped with the price of their bonds, which means that they owe in advance all they are worth. The farmers complain, therefore, that they are taxed in the form of rates and fares to pay interest on a fictitious capital, and that these rates and fares are really equivalent to a burden on their land. It will be interesting to consider the measures which President ROOSEVELT proposes for the removal of these grievances.

#### Imprisonment for Debt.

SOME very pertinent observations on the subject of imprisonment for debt are contained in a short statement by Judge CARTON, K.C., the county court judge of Clare, which has been recently published in pamphlet form. The Debtors Act, 1869, abolishes, with certain exceptions, imprisonment for debt, but the exceptions are so important that in 1905 nearly a quarter of a million orders of commitment were made against debtors in the county courts and 11,427 debtors were actually imprisoned. This implies that payment of small debts is secured in a vast number of cases by fear of imprisonment, and that, in a not inconsiderable number, imprisonment actually occurs. Now, the Act of 1869, by section 4, specifically excepts certain cases where the payment of money has been originally ordered as a penalty, or where the non-payment imports dishonesty, and it also excepts, by virtue of section 5, cases where an order for payment has been made by the court, and the debtor either has or has had since the date of the order the means to pay. Then Part II. of the Act provides separately for the punishment of fraudulent debtors. Judge CARTON would retain imprisonment in the cases specifically mentioned in section 4, and also the imprisonment prescribed purely as a punishment for fraudulent debtors under Part II. His quarrel is with the undue extension which in practice is given to the words "means to pay" in section 5. In his opinion these should not be construed as implying means to provide payment of the particular sum as to which the debtor is in default, but means to provide payment having regard to (1) his position in life; (2) the claims of those dependent on him, and (3) the claims of his other creditors. The judge says that, rightly or wrongly, he has acted on this principle, with the result that he has only made one order for commitment, and that was in a case where the debtor could pay and was dishonestly withholding payment. His own view is that imprisonment under section 5 as a means of enforcing payment of debts should be abolished, and that it should be retained only to the extent mentioned above. It would be interesting if expressions of opinion on the subject could be obtained from English county court judges, particularly from those in districts where the issuing of warrants of commitment is so frequent as to be part of the regular practice of the court. The question calls for discussion, and the present application of the Debtors Act should either be justified or discontinued.

#### Remuneration of Deputies of County Court Judges.

IT IS STATED that the county court judge for Hampshire, who recently met with a bad accident, resumed his official duties ten days before the date recommended by his medical adviser. His Honour said that he wished to prevent any further inconvenience to the suitors or their solicitors, and inasmuch as the County Court Acts did not make provision for the appointment of deputies in the case of a judge's illness, he had, contrary to the advice of his physician, decided to carry on his courts; not being willing, if he could avoid it, to incur the serious expense of providing his own deputy. By section 18 of the County Courts Act, 1888, in case of the illness or unavoidable absence of any county court judge, it shall be lawful for such judge to appoint a deputy during such illness or unavoidable absence, and it shall also be lawful for the judge to appoint a deputy for any time or times, not exceeding in the whole two months, in any consecutive period of twelve months. In either case the appointment is subject to the approval of the Lord Chancellor, and the Lord Chancellor, in case of the judge's inability to make the appointment, may make the same. But the Legislature has considered that the judge should provide the remuneration of any deputy to be appointed by him, and the liability for this remuneration has been the cause of much discontent on the county court bench. It is not easy to deal with the matter on general principles. The judge receives his salary during the period of his absence from illness, and although he is at liberty to appoint a deputy, he is not required to do so. Judges of the High Court, when disabled by illness, resign themselves to the circumstances and leave the Government to provide for the emergency in such manner as they may be advised. We can hardly think there is much prospect of an amendment of the law as to the remuneration of the deputies appointed by county court judges, so as to place the burden of their remuneration upon the State.

#### Licensing of Places of Public Entertainment.

MANY PERSONS are in a state of uncertainty as to how far a musical performance in a private house, to which the public are admitted on payment of money, requires the sanction of a licence from justices; and the ordinary text-books on the Licensing Acts will not afford them very precise information on the subject. The wealthier sort of people in places within twenty miles of London and Westminster often lend their houses for musical performances in aid of a charity, or for the purpose of introducing some musician to public notice. Tickets of admission to these performances may be obtained by any person who is willing to pay for them, and it is not supposed for a moment that any licence is required. The law relating to music licences is chiefly contained in the Disorderly Houses Act, 1751, and the preamble of this Act certainly goes to shew that it was not aimed at performances like those to which we have referred. It recites that the multitude of places of entertainment for the lower sort of people is a great cause of thefts and robberies, as they are thereby tempted to spend their small substance in riotous pleasures, and in consequence are put on unlawful methods of supplying their wants and renewing their pleasures. The statute then enacts that any house or room "kept" for public dancing, music, or other public entertainment of the like kind without a licence shall be deemed a disorderly house or place. It will be seen that the licence is only required for a house or room "kept" for public music, and it would be an abuse of language to say that the mere use of a room in a house for an occasional musical performance came within the intent or meaning of the statute. The decisions upon the Act, so far as they go, entirely support this view.

#### Overriding Colonial Legislation.

A BLUE BOOK has been published containing further correspondence on the question of the Newfoundland Fisheries. The whole episode of the disagreement between the Home and the Newfoundland authorities is an interesting one for the legal onlooker, because it affords a clear and striking instance of the legislation of a self-governing colony being overridden by an Order in Council from London. The Act of 1819 (59 Geo. 3, c. 38) is entitled "An Act to enable

His Majesty to make regulations with respect to the taking and curing fish on certain parts of the coast of Newfoundland, Labrador, and His Majesty's other possessions in North America, according to a convention made between His Majesty and the United States of America." Section 1 empowers the King, by Orders in Council, "to make such regulations and to give such directions, orders, and instructions to the Governor of Newfoundland . . . for the carrying into effect the purposes of the said convention." Under the authority of this enactment an Order in Council was, on the 9th day of September last, made embodying what is known as the *modus vivendi* with the United States under which the fisheries were carried on last year. The extraordinary thing is that the Newfoundland Government should seriously affect to believe that their powers of self-government enabled them to legislate in such a way as to practically abrogate the provisions of the Imperial Act of 1819. To parody the lines: "Daughter I am in my mother's house, but mistress in my own," Newfoundland wants to be mistress in her mother's house as well as in her own.

#### The Law of British India.

A STATEMENT that the Legislative Department of the Government of India is about to introduce several measures of interest and importance may draw the attention of Englishmen to the law by which that huge dependency—next after China the most populous area in the world—is governed. There can be little doubt that there is no other instance of so vast a population (little short of three hundred millions) being governed by a uniform system of law. The great codes which pre-eminently do honour to the Indian Legislature—the Penal Code, the Code of Criminal Procedure, and the Civil Procedure Code, together with the Indian Contract Act, 1872, and a number of other important statutes, extend to the whole of British India, and notwithstanding the fact that this territory includes many districts the inhabitants of which are as dissimilar as if they were distinct nations, they have been applied and enforced with little friction or difficulty. Their basis is the law of England stripped of its local peculiarities and modified with regard to the condition, institutions, and climate of India, and the character, religions, and usages of the population. As a contrast to this uniformity of procedure, we may refer to our own island, in which a small part of the population have a separate system of law, and the American Republic, where a large number of English-speaking States have each of them a separate Legislature and separate laws.

### Fictitious Payees.

THE decision of the Court of Appeal in *Macbeth v. North and South Wales Bank* (*Times*, 18th inst.) confirms the interpretation given to *Vagliano's case* (1891, A. C. 107) by WARRINGTON, J., in *Vinden v. Hughes* (1905, 1 K. B. 795), and makes it easier to apply the term "fictitious person" in section 7, sub-section 3, of the Bills of Exchange Act, 1882. The plaintiff in the present case, MACBETH, was the manager of the local branch of the Clydesdale Bank at Dunfermline. IRVINE was his brother-in-law, and WHITE was the managing director of White's Carriage Company. MACBETH had previously assisted the other two in business transactions, and in December, 1905, they came to him with a proposal for the purchase of shares in WHITE's company. WHITE stated that a friend of his, named KERR, who formerly lived at Bootle, and was then an engineer residing at Manchester, had 5,000 preference shares in the company, and that he had arranged to buy these at £2 5s. a share, and resell them at £2 10s. to a syndicate who were buying up carriage businesses in and around Liverpool. MACBETH was ready to go into the business, and to provide the £11,250 required to finance it, if he could arrange to obtain the money from the head office of the Clydesdale Bank. This was done, and an agreement was drawn up between MACBETH, IRVINE, and WHITE, whereby MACBETH was to advance this, and also the money required for certain other transactions, and the

three were to participate jointly in profits and losses. KERR was an actual person, and the statements about him were true, save that he had at that time no shares in the carriage company. But MACBETH did not get into actual touch with him, and this fault in the deal he did not discover. He drew a cheque on the Clydesdale Bank in favour of KERR, and sent it to IRVINE, in order that he or WHITE might hand it to KERR in exchange for the transfer of the 5,000 shares. IRVINE gave the cheque to WHITE for this purpose, but WHITE forged KERR's endorsement and paid the cheque into the defendant bank, who credited him with the amount, and then collected the cheque from the Clydesdale Bank. WHITE attempted to cover the fraud by obtaining certificates for 5,000 shares from the secretary to the carriage company, and these were forwarded to MACBETH, and by him deposited with the Clydesdale Bank as security for the loan. MACBETH, as soon as he heard of the forged endorsement, repudiated the transaction, and claimed to recover the amount of the cheque from the North and South Wales Bank as damages for wrongful conversion.

The defendant bank raised no defence under section 82 of the Bills of Exchange Act, 1882, presumably because the amount of the cheque had been credited to WHITE before the cheque had been collected. That section, as is well known, provides that, where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment. As the transaction in question took place in 1905, it was governed by the law laid down in *Capital and Counties Bank v. Gordon* (1903, A. C. 240), and the defendant bank were to be treated as receiving payment for themselves and not for their customer, WHITE. This is a subtlety which does not touch the substance of the relations between banker and customer, and the matter has now been put on a proper basis by the Bills of Exchange (Crossed Cheques) Act, 1906. But whatever was the reason, no reliance was placed on section 82, and the defendant bank rested their case on the argument that KERR was, for the purpose of the particular transaction, a fictitious person, and that, therefore, the cheque was, by virtue of section 7, sub-section 3, of the Act of 1882, to be treated as payable to bearer. "Where," so runs the sub-section, "the payee is a fictitious or non-existing person, the bill may be treated as payable to bearer," and this is applied to cheques by section 73.

The meaning of "fictitious" for this purpose was, of course, decided by *Vagliano's case* (*supra*), and it is only a question of applying the rule of construction established by that case. There the payees of the bills, PETRIDIS & Co., were a real firm, who were known to and had business relations with VAGLIANO BROTHERS, the acceptors; but their name was inserted by GLYKA, the person who forged the bills, without any intention that they should receive payment; the name of the drawer, VUCINA, was equally a forgery; the bills represented no actual transaction at all; and the payees' indorsement was forged. Notwithstanding this, it was held by the full Court of Appeal (23 Q. B. D. 243)—LORD ESHER, M.R., dissenting—that PETRIDIS & Co. were not fictitious within the meaning of the enactment, and that the bills could not be treated as payable to bearer. The judgment of the majority was prepared by BOWEN, L.J., and it rested upon the ground that PETRIDIS & Co. were real persons, and were known by the acceptor to be so. "PETRIDIS & Co.," it was said, "were old customers of VUCINA, carrying on business at Constantinople, whose existence was known to the acceptor, and whose name was fraudulently introduced into the bill by GLYKA because it was the name of a real and known firm. In effect, the representation made to the acceptor on the face of a draft drawn under such circumstances and read by their light was that the payee was not a fictitious person." And after observing that GLYKA did not mean PETRIDIS & Co. to receive the money, BOWEN, L.J., pointed out that this did not interfere with the fact that they were real persons. "It was the very essence of his criminal device that everybody who saw the draft should be led to think that a real firm—PETRIDIS & Co., of Constantinople—were the persons to whom the money was to be paid. A real and historical person does not become fictitious



by being put into a work of fiction. MARY, Queen of Scots, is not a fictitious person because she figures in 'The Abbot.'

But in the view of the House of Lords this laid too much stress upon the actuality of the payee's existence as known to the acceptor. The character of the payee is determined by the drawer—the person who originates the bill and puts it in circulation—and if such person does not intend that the payee shall in fact be the recipient of the money, he is a fictitious person; that is, for the purpose of the bill, he must be treated as such. As it was put by Lord HERSHELL, "Whenever the name inserted as that of payee is so inserted by way of pretence merely, without any intention that payment shall only be made in conformity therewith, the payee is a fictitious person within the meaning of the statute, whether the name be that of an existing person, or of one who has no existence, and the bill may in each case be treated by a lawful holder as payable to bearer."

But while the intention of the drawer that the payee, though real, shall not be the actual recipient of the proceeds of the bill, turns him into a fictitious payee, the contrary, as was held in *Clutton v. Attenborough* (1897, A. C. 90), is not true; and if a person is induced to draw a bill or a cheque in favour of a person whom he believes to be real, and to be his creditor, but who in fact has no existence, such payee does not become a real person for the purpose of the bill. He is fictitious or non-existing, and the bill is payable to bearer. This is the opposite of *Vagliano's case*, but the principle established in that case had to be considered by WARRINGTON, J., in *Vinden v. Hughes* (1905, 1 K. B. 795). There the drawer of a series of cheques was induced by his clerk to draw them in favour of actual customers. The drawer supposed that they were for amounts really due to such customers, and he intended the payees to receive the proceeds of the cheques. In fact, however, the clerk obtained them for his own purposes, forged the indorsements, and had them cashed. Here, as in *Vagliano's case*, the cheques did not represent any real transaction, but the payees were actual persons, and, in distinction to that case, the drawer intended them to receive payment. WARRINGTON, J., held, accordingly, that the payees were not fictitious persons within the meaning of section 7 (3). The drawer "had every reason to believe, and he did believe, that those cheques were being drawn in the ordinary course of business for the purpose of the money being paid to the persons whose names appeared on the face of those cheques"; and this, in the learned judge's opinion, took the case outside *Vagliano Brothers v. Bank of England*. The character of the payee, if he is in fact a real person, depends on the intention of the drawer, and if the drawer intends him to have no real relation to the bill, he is fictitious within the meaning of the statute; though if he is in fact fictitious, the belief of the drawer that he is real does not make him so.

From the circumstances in *Macbeth v. North and South Wales Bank* (*supra*), already stated, it appears that the point involved was very similar to that in *Vinden v. Hughes*, and BRAY, J. (1906, 2 K. B. 718), decided, in accordance with the judgment of WARRINGTON, J., that KERR was not a fictitious person, and that the cheque for £11,250 could not be treated as payable to bearer. He was a real person, and was intended by MACBETH, the drawer of the cheque, to be the actual recipient of the proceeds. Hence he did not become fictitious because the transaction had not in fact the character which MACBETH supposed it to have, and because a third person intervened, and, by forging the indorsement, succeeded in misappropriating the proceeds. The payee was actually existent, and was the payee really contemplated by the drawer, and that was sufficient. "It matters not," said BRAY, J., "in my opinion, how much the drawer of the cheque may have been deceived, if he honestly intends that the cheque shall be paid to the person designated by him." With this the Court of Appeal have now agreed. Whether a payee, who is in fact a real person, is fictitious for the purpose of the bill or cheque depends on the intention of the person who inserts the name. MACBETH intended KERR, who was a real person, to be the actual payee, and the cheque, therefore, was not payable to bearer. Consequently, the defendant bank were liable for the conversion of the cheque, though, as already pointed out, they would now, in ordinary circumstances, be able to avail themselves of the protection of section 82.

## A Reading of the New Statutes.

THE MARRIED WOMEN'S PROPERTY ACT, 1907 (7 ED. 7, c. 18).

The provisions of this statute have already been considered (*ante*, pp. 743, 754). It does not come into operation until the 1st of January, 1908, but is retrospective in regard to dispositions by married women trustees made since the 31st of December, 1882.

THE CRIMINAL APPEAL ACT, 1907 (7 ED. 7, c. 23).

This Act applies only to persons convicted after the 18th of April, 1908. Under section 15, rules for carrying the Act into effect are to be made by the Lord Chief Justice and the judges of the Court of Criminal Appeal, or any three of such judges, with the advice and assistance of a special Rule Committee constituted under the Act. The rules are to be subject to the approval of the Lord Chancellor, and, so far as they affect prison officials, subject to the approval also of the Home Secretary. It will be convenient to postpone any detailed consideration of the Act until the rules have been issued.

THE LIMITED PARTNERSHIPS ACT, 1907 (7 ED. 7, c. 24).

This Act has been considered *ante*, p. 790.

THE COMMISSIONERS FOR OATHS (PRIZE PROCEEDINGS) ACT, 1907 (7 ED. 7, c. 25).

By section 4 of the Commissioners for Oaths Act, 1889 (52 Vict. c. 10), the Lord Chancellor is empowered to authorize any person to administer oaths and take affidavits for any purpose relating to prize proceedings in the Supreme Court while that person is on the high seas or out of the King's dominions. The present Act dispenses with the necessity for special authority in such cases, and provides generally that the power to administer oaths and take affidavits for such purposes shall be vested "in any officer for the time being holding any prescribed office on board any of his Majesty's ships, or any of his Majesty's ships of a prescribed class, whilst on the high seas or out of his Majesty's dominions, by virtue of his office. The expression "prescribed" means prescribed by Admiralty regulations, made with the consent of the Lord Chancellor.

THE ADVERTISEMENT REGULATION ACT, 1907 (7 ED. 7, c. 27).

This Act confers upon local authorities power to make bye-laws (1) for the regulation and control of hoardings used for advertising when they exceed twelve feet in height, and (2) "for regulating, restricting, or preventing the exhibition of advertisements in such places and in such manner, or by such means, as to affect injuriously the amenities of a public park or pleasure promenade, or to disfigure the natural beauty of a landscape." In course of time this provision may be expected to prevent advertisements from being the eyesores which they have recently tended to become, and it is to be hoped that local authorities will give a liberal construction to "the natural beauty of a landscape," so as, for instance, to allow passengers to look out of a train without having to reflect every few yards upon the efficacy of some particular pill or other article. But any improvement upon existing conditions is postponed for five years, that being the minimum period of exemption which it is required—very unnecessarily it would seem—that bye-laws shall provide for existing hoardings and advertisements. Bye-laws must be confirmed by the Home Secretary, who, before confirming them, must consider any objection by persons affected, and who may order a local inquiry to be held. The Act is now in operation.

THE PATENTS AND DESIGNS ACT, 1907 (7 ED. 7, c. 29).

Important alterations in patent law were made by the Patents and Designs (Amendment) Act, 1907 (7 ED. 7, c. 28), and were incorporated in the Patents and Designs Act, 1907, which is a consolidating Act, and which repeals the previous Acts and also the amending Act just referred to. The Act, save as otherwise expressly provided, commences on the 1st of July, 1908. The Act will be considered hereafter.

THE VACCINATION ACT, 1907 (7 ED. 7, c. 31).

Under the Vaccination Act, 1898 (61 & 62 Vict. c. 49), a parent who desired for his child exemption from vaccination was bound to satisfy the magistrates in petty sessions, or a police magistrate, that he conscientiously believed that vaccination would be prejudicial to the health of the child. This, as is well known, led to considerable difficulty in practice, different authorities applying different tests for satisfying themselves as to the right to exemption. In fact, however, the right seems to depend upon the evidence of the applicant as to his conscientious belief, and the present Act makes this the sole test and releases magistrates from any duty in the matter. A person desiring exemption will no longer apply to a magistrate, but will make a statutory declaration that he conscientiously believes that vaccination will be prejudicial to the health of the child. The declaration must be made within four months from the birth and

delivered or posted to the vaccination officer within seven days after it is made. It will be exempt from stamp duty. A form of declaration is given in the schedule to the Act. It must be declared before a commissioner or other person authorized to receive a statutory declaration.

**THE QUALIFICATION OF WOMEN (COUNTY AND BOROUGH COUNCILS) ACT, 1907 (7 Ed. 7, c. 33).**

Under the Local Government Act, 1894 (56 & 57 Vict. c. 73) a woman is qualified to be a member of an urban or rural district council, or of a parish council, or to be a guardian, it being expressly enacted that "no person shall be disqualified by sex or marriage" for these offices: sections 3 (2), 20 (2), 23 (2), 24 (4); but hitherto no statute has removed the common law disqualification of women to be members of county or borough councils, a disqualification which was affirmed by the Court of Appeal in *Beresford-Hope v. Sandhurst* (23 Q. B. D. 79). This is now done by the above statute, which provides that "a woman shall not be disqualified by sex or marriage from being elected or being a councillor or alderman of the council of any county or borough (including a metropolitan borough)"; but her election as chairman of a county council or mayor of a borough will not qualify her to be a justice of the peace. The Act is already in operation.

**THE FACTORY AND WORKSHOP ACT, 1907 (7 Ed. 7, c. 39).**

This Act applies the Factory and Workshop Act, 1901, to laundries by enacting (section 1) that at the end of Part II. of the sixth schedule to that Act, enumerating non-textile factories and workshops, the following paragraph shall be added: "(29) Laundries carried on by way of trade or for the purpose of gain, or carried on as ancillary to another business or incidentally to the purposes of any public institution." Section 2 prescribes the hours of employment of women and young persons in laundries, and section 3 introduces special regulations. Section 5 applies the Factory and Workshop Act, 1901, to institutions carried on for charitable or reformatory purposes where manual labour is exercised in making, repairing, or washing articles not intended for the use of the institution; but the managers of the institution may submit to the Home Secretary an alternative scheme for the regulation of the hours of employment, &c., and the Home Secretary may approve it if he is satisfied that its provisions are not less favourable than those of the Act of 1901. The provisions of the Act, which commences on the 1st of January, 1908, are in substitution for those of section 103 of the Act of 1901, which is repealed.

**THE NOTIFICATION OF BIRTHS ACT, 1907 (7 Ed. 7, c. 40).**

In areas where this Act is adopted the notification of births will be greatly accelerated. Under the Births and Deaths Registration Act, 1874 (37 & 38 Vict. c. 88), forty-two days is allowed for giving information of a birth to the registrar. This period is now reduced to thirty-six hours. Moreover, registration has hitherto only been required in the case of children born alive. Notification under the new Act applies to "any child which has issued forth from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead." Local authorities may adopt the Act within their areas, and such adoption must be in accordance with the provisions in the schedule. "Local authority" is defined to include borough councils (including metropolitan boroughs), urban and rural district councils, and county councils (except the London County Council). In metropolitan boroughs where it is adopted, weekly returns of births will be made by the borough medical officer of health to the London County Council.

**LIGHTS ON VEHICLES ACT, 1907 (7 Ed. 7, c. 45).**

Hitherto there has been no general provision requiring vehicles to carry lights at night, though provision has been made in the case of cycles, motor-cars, and road locomotives. The present Act supplies this omission, and requires that all vehicles used between one hour after sunset and one hour before sunrise in any highway or road to which the public have access shall carry in front a white light visible for a reasonable distance. If the lamp shows also a light to the rear, that light must be red. Vehicles carrying timber or other loads projecting more than six feet to the rear must be lighted in the rear with a red light. Borough councils and the London County Council may, with the approval of the Home Secretary, exempt vehicles carrying inflammable goods, or being where such goods are stored or dealt with (section 3), and county councils may exempt vehicles engaged in harvesting operations (section 4). Section 2 provides penalties for offences against the Act—up to 40s. for a first offence, and up to £5 for a subsequent offence, recoverable summarily. The Act commences on the 1st of January, 1908.

**THE EMPLOYERS' LIABILITY INSURANCE COMPANIES ACT, 1907 (7 Ed. 7, c. 46).**

Life assurance companies established since the passing of the Life Assurance Companies Act, 1870 (33 & 34 Vict. c. 61), are subject to the provisions of that Act and the Act of 1872. These provisions are

now extended to employers' liability companies, subject to such necessary modifications and adaptations as may be made by Order in Council. But this extension is not to apply where the insurance is incidental to marine insurance business, or to mutual insurance associations of employers, or to underwriters who comply with the schedule to the Act; and the £20,000 deposit will not be required where the company commenced to carry on employers' liability insurance business before the passing of the Act—the 28th of August, 1907. The Act will commence on a day to be specified in an Order in Council.

**THE DECEASED WIFE'S SISTER MARRIAGE ACT, 1907 (7 Ed. 7, c. 47).**

The provisions of this Act are too widely known to make it necessary to comment on them here, but it may be noticed that section 2 contains a saving for all interests, whether in possession or expectancy, and whether vested or contingent, existing in respect of titles or property at the passing of the Act—the 28th of August, 1907. The Act is now in operation.

**THE COMPANIES ACT, 1907 (7 Ed. 7, c. 50).**

**THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1907 (7 Ed. 7, c. 53).**

**THE SMALL HOLDINGS AND ALLOTMENTS ACT, 1907 (7 Ed. 7, c. 54).**

These Acts require detailed consideration, which we propose to give to them hereafter. The two latter come into operation on the 1st of January, 1908; the Companies Act commences on the 1st of July, 1908, except the provisions as to re-issue of debentures, which are already in force.

## Reviews.

### Guide to Practice.

**THE A. B. C. GUIDE TO THE PRACTICE OF THE SUPREME COURT, 1908. SIXTH EDITION.** By FRANCIS A. STRINGER, of the Central Office of the Supreme Court. Sweet & Maxwell (Limited); Stevens & Sons (Limited).

This concise guide to practice is a very fitting companion to the larger volumes of the Annual Practice. Its alphabetical arrangement dispenses with an index, and enables the practitioner at once to refer to the practice on the particular point before him. As an example we may instance the note on Taxation of Costs, which under the sub-heads, Reference to a Master, Fees, Appointment to Tax, Short and Urgent Taxations, Certificate or Allocatur, Filing, and Review of Taxation, shortly states the necessary steps in this, to solicitors, important process. A new title—House of Commons, Enforcing Payment of Costs—has been added for the purpose of shewing the practice on the recovery of costs of promoting or resisting Bills in Parliament, and the work has been revised and otherwise brought up to date.

### The Yearly Practice.

**THE YEARLY SUPREME COURT PRACTICE, 1908: BEING THE JUDICATURE ACTS AND RULES, 1873 TO 1907, AND OTHER STATUTES AND ORDERS RELATING TO THE PRACTICE OF THE SUPREME COURT, WITH THE APPELLATE PRACTICE OF THE HOUSE OF LORDS. WITH PRACTICAL NOTES.** By M. MUIR MACKENZIE, B.A., one of the Official Referees of the Supreme Court; T. WILLES CHITTY, a Master of the Supreme Court; S. G. LUSHINGTON, M.A., B.C.L., Barrister-at-Law; and JOHN CHARLES FOX, a Master of the Supreme Court (Chancery Division); assisted by R. E. ROSS, LL.B., of the Central Office; and the following: J. A. COLLINGWOOD SPROULE, S. A. GUEST, and HORACE C. FENTON, Barristers-at-Law, and W. J. CHAMBERLAIN, Solicitor of the Supreme Court. IN TWO VOLUMES. Butterworth & Co.

The Yearly Practice appears this time in two bulky volumes and in a somewhat aggressive red binding—possibly to distinguish it more clearly from the work of which it is the rival. At any rate the Red Book—as it will now doubtless be called—is a work which deserves to be consulted by the practitioner who wishes to be sure that no relevant point or authority has been overlooked. That there should be such eagerness to be absolutely correct in every point of procedure is easy enough to understand. A slip may mean that costs have been needlessly incurred, and the solicitor is lucky if he does not have to pay them out of his own pocket. But it is unfortunate that judges and court officials either should attach so much importance to mere matters of procedure, or should have—if this is the explanation—so little discretion to overlook failure to comply with the rules. It is impossible to avoid such reflections when we find that the Yearly Practice, which in its original form was a very useful book, has now been completely overhauled. We gather that the notes have been re-written so as to include a statement of or reference to every case which still ranks as an authority, and the bulk of the work has naturally been increased.



As to the thoroughness with which the editors have done their work there can be no doubt. The Rules of the Supreme Court occupy the first volume, the rules themselves being printed at the head of the page and the voluminous notes at the foot. These are remarkable for the fulness and detail with which they treat the subject in hand. Under "Attachment," for instance, the procedure in regard to attachment and committal, and the various circumstances which constitute contempt of court, are very minutely and clearly stated; and the notes to ord. 65, r. 27 (29), which embodies the present rule as to party and party costs, furnish full information as to the cases on the meaning and application of the rule. The Judicature Acts are given in Vol. II., and are printed, as in former editions, as a consolidated statute, tables being prefixed so as to show exactly where the sections of each Act are to be found. The notes to section 25 of the Act of 1873 are an excellent epitome of legal comments on the important provisions of the section as amended by section 10 of the Act of 1875, and it is no fault of the editors that matters of substantive law and of procedure are inextricably mixed up. Vol. II. contains also the Arbitration Act, 1889, fully annotated, and other statutes, with the Supreme Court Funds Rules, the Appendices to the R.S.C., and much miscellaneous matter. The work could not have attained its present form without great industry and care on the part of the editors.

### Books of the Week.

The Theory and Practice of the Law of Evidence. By WILLIAM WILLS, M.A., Barrister-at-Law. Second Edition. By the Author and THORNTON LAWES, M.A., B.C.L., Barrister-at-Law. Stevens & Sons (Limited).

The Law of Torts: a Treatise of the English Law of Liability for Civil Injuries. By JOHN W. SALMOND, M.A., LL.B., Barrister of the Supreme Court of New Zealand. Stevens & Haynes.

Guide to the Preparation, Delivery, and Taxation of Bills of Costs, with Precedents of Bills of Costs in all the Divisions of the High Court of Justice, &c., &c., and Notes and Decisions Thereon. Eleventh Edition. By C. W. SCOTT, assisted by A. W. PORTER, both of the Supreme Court Taxing Office, Royal Courts of Justice. In Two Vols. Waterlow & Sons (Limited).

The Relationship of Landlord and Tenant. By EDGAR FOA, Barrister-at-Law. Fourth Edition. Stevens & Haynes.

The Yearly Supreme Court Practice, 1908: being the Judicature Acts and Rules, 1873 to 1907, and other Statutes and Orders relating to the Practice of the Supreme Court, with the Appellate Practice of the House of Lords, with Practical Notes. By M. MUTR MACKENZIE, B.A., T. WILLES CHITTY, S. G. LUSHINGTON, M.A., B.C.L., Barrister-at-Law, and JOHN CHARLES FOX, a Master of the Supreme Court (Chancery Division), assisted by R. E. ROSS, LL.B., of the Central Office, and the following: J. H. COLLINGWOOD SPOURLE, HORACE C. FENTON, S. A. GUEST, Barristers-at-Law. W. J. CHAMBERLAIN, Solicitor. In Two Vols. Butterworth & Co.

The Law of Married Women's Contracts. By M. R. EMANUEL, M.A., B.C.L., Barrister-at-Law. Butterworth & Co.

The Patents and Designs Acts, 1907, with Notes and the Practice Thereunder. By JAMES ROBERTS, Esq., and H. FLETCHER MOULTON, Esq., Barristers-at-Law. Butterworth & Co.

The Law Relating to Riots and Unlawful Assemblies, together with a View of the Duties, Powers, and Liabilities of Magistrates, Constables, and Military, and Private Citizens, in the Suppression Thereof; the Treason Felony Act, 1848; the Conspiracy and Protection of Property Act, 1886, with the Regulations Thereunder; and the Trades Disputes Acts, 1906. By the late EDWARD WISE, Esq., Barrister-at-Law. Fourth Edition. By A. H. BODKIN, Esq., and LEONARD W. KERSHAW, Esq., Barristers-at-Law. Butterworth & Co.; Shaw & Sons.

Treatise on the Conversion of a Business into a Private Limited Company, with Annotated Forms of Memorandum and Articles of Association, and other Documents and Observations on the Relevant Provisions of the Companies Act, 1907. By CECIL W. TURNER, Barrister-at-Law. The Solicitors' Law Stationery Society (Limited).

The Law Quarterly Review. Edited by Sir FREDERICK POLLOCK, Bart., D.C.L., LL.D. October, 1907. Stevens & Sons (Limited).

The American Law Review. September—October, 1907. Editors: CHARLES E. GRINNELL, Boston; HANNIS TAYLOR, Washington. Reeves & Turner.

A Catalogue of Modern Law Books, together with a Complete Chronological List of all the English, Irish, and Scotch Reports, an Alphabetical Table of Abbreviations used in Law Reports and Text-Books, a Regal and Successional Table from 1760, and a Full Index of Subjects. Stevens & Sons (Limited).

## New Orders, &c.

### Court Fees in County Courts.

RULES PUBLICATION ACT, 1893.

The Lords Commissioners of His Majesty's Treasury hereby give notice of their proposal to issue a new Order amending the Order of the 30th of December, 1903, regulating court fees in county courts.

Any public body may obtain copies of the draft Order on application to the County Courts Department, Whitehall, London, S.W. Treasury, Oct. 22, 1907.

## CASES OF THE WEEK.

### Court of Appeal.

DAVIS v. MAYOR, &c., OF BROMLEY. No. 1. 17th Oct.

LOCAL AUTHORITY—BUILDING—PLANS OF DRAINAGE—APPROVAL BY LOCAL AUTHORITY—ACTION FOR MALICIOUS REFUSAL.

An action for damages will not lie against a local authority for maliciously refusing to approve of plans for the drainage of a house in their district.

Application by the plaintiff for judgment or a new trial in an action tried before Lawrence, J., and a jury. The plaintiff was the owner and occupier of a house in a district of which the defendants were the local authority, and he submitted to the defendants for their approval certain plans for the drainage into a sewer belonging to the defendants of his house and a proposed addition thereto. The defendants refused to approve of the plans, upon the ground that they did not comply with their bye-laws. The plaintiff thereupon brought an action against the defendants, the statement of claim alleging that the plans complied with the bye-laws, and that the defendants maliciously and in breach of their duty as the local sanitary and building authority disapproved of them; and the plaintiff claimed (1) a declaration that he was entitled to construct the drainage of his house in accordance with the plans, and to connect the same with the sewer; (2) an injunction to restrain the defendants from hindering the plaintiff in so constructing and connecting the drains; and (3) £500 damages. The defendants, in their defence, denied these allegations. At the trial, before any evidence was given, the objection was taken by the defendants that an action would not lie against a local sanitary authority for maliciously refusing to approve of plans for drainage. Lawrence, J., upheld this objection, and gave judgment for the defendants.

THE COURT (VAUGHAN WILLIAMS, L.J., Sir GORELL BARNES, P., and BIGHAM, J.) dismissed the appeal.

VAUGHAN WILLIAMS, L.J., said it was not contested that the Legislature had given the power to the local authority to determine the question whether the plans were in accordance with their bye-laws. In deciding that question the local authority were not exercising judicial functions, but they were exercising a discretion which was vested in them by statute, and the object of this action was to endeavour to have the decision of the council overruled. It was alleged that the decision of the council was so unreasonable that it afforded ground for saying that the council were actuated by some oblique motive—by a feeling of bitterness against the plaintiff arising from a lengthy litigation. But even if the facts were such as to suggest that the council were actuated by such a motive, in his opinion when the Legislature had vested in a local authority the right and the duty of deciding whether they would sanction the plans, no action would lie against them in respect of the decision they arrived at, though there was evidence to show that the members thereof were actuated by bitterness or some other indirect motive. There was an appropriate mode of having the decision of the local authority set aside by applying for a *mandamus* to the King's Bench Division to hear and determine the matter upon the ground that the local authority had not really applied their minds to the question which they had to decide.

Sir GORELL BARNES, P., and BIGHAM, J., agreed.—COUNSEL, *Montagu Shearman, K.C.*, and *Harry Dobb*; *Montagu Lush, K.C.*, and *Adam Walker*. SOLICITORS, *L. W. Gregory*; *Sharpe, Parker, & Co.*, for *W. Jermyn Harrison*, Bromley.

[Reported by W. F. BARRY, Barrister-at-Law.]

NICHOLSON v. PIPER. No. 1. 19th Oct.

PRACTICE—APPEAL—EXTENSION OF TIME—MISTAKE OF LEGAL ADVISER—R. S. C. LVIII. 15.

The fact that the legal adviser of a party thought that it was impossible on the facts of the case to appeal from an order is not a special circumstance for subsequently extending the time for appealing.

Application for an extension of time for appealing. The applicant, Nicholson, received a personal injury while in the employment of the respondent, Piper. An agreement for the payment of a weekly sum as compensation under the Workmen's Compensation Act, 1897, was come to and was recorded under Schedule II., paragraph 8, of the Act. An application was subsequently made by the respondent for the review with a view to termination of the weekly payment, and the county court judge made an order that the agreement should be that day terminated and that the weekly payments should be ended. Later on the applicant applied for a review with a view to an increase of the weekly payment, upon the ground

that the injury had broken out again and that he was incapacitated from work. The deputy county court judge refused the application upon the ground that the arbitration was finally determined by the order of the judge putting an end to the weekly payments. This decision was affirmed by the Court of Appeal and the House of Lords (1907, A. C. 215). The applicant, relying upon an observation of Lord Halsbury that an appeal might have been brought against the form of the original order ending the weekly payments, now applied to the court for an extension of time for appealing from that order, upon the ground that the applicant's legal advisers at the time thought that an appeal from it could not succeed as the incapacity for work had then ceased.

THE COURT (BUCKLEY and KENNEDY, L.J.J.) dismissed the application. BUCKLEY, L.J., said that there were no special circumstances to found an extension of time. The law had been settled by the last case on the subject—*In re Coles and Ravenshear* (ante, p. 45; 1907, 1 K. B. 1)—that a mistake of the litigant's legal advisers was not a special circumstance.

KENNEDY, L.J., concurred.—COUNSEL, *Montague Shoorman, K.C., and Edmund Broome; Horridge, K.C., W. Shakespeare, and W. Lloyd.* SOLICITORS, *Pattinson & Brewer; William Hurd & Son.*

[Reported by W. F. BARRY, Barrister-at-Law.]

**MORRIS & BASTERT (LIM.) v. LOUGHBOROUGH CORPORATION.**  
17th Oct.

**ELECTRIC LIGHTING—SUPPLY OF ENERGY—PENALTY FOR DEFAULT—AGREEMENT AS TO PRICE—DEFAULT—RIGHT TO SUE FOR DAMAGES.**

*An action for damages lies for failure to supply electric light under an agreement.*

Appeal by the plaintiffs from a decision of Bigham, J., given on points of law raised by the defence to an action for damages for breach of contract. The defendants, as the local authority, were the Loughborough Corporation Act, 1899 (62 & 63 Vict. c. cxxvii.), empowered to supply electrical energy, and were required, on request by the owner or occupier of any premises situated within fifty yards from any distributing main of the undertakers in which they were for the time being required to maintain or were maintaining a supply of energy for the purpose of general supply to private consumers, to furnish a supply. The Act provided for penalties at the rate of forty shillings for each day, recoverable summarily, in case of default, and contained a clause empowering the local authority (subject to the right of the consumer to be charged according to the methods laid down in the Act) to make agreements with the consumers as to the price to be charged. The plaintiffs, who were engineers carrying on a large business at Loughborough, requested to be supplied with electrical energy, and an agreement in writing dated the 18th of January, 1904, was entered into whereby the defendants agreed to put down a main and to supply them upon certain terms and conditions as set out in the agreement. About three o'clock in the afternoon of the 22nd of November, 1905, the defendants wholly neglected and failed to supply electrical energy in accordance with this contract, and no supply was received for a period of six hours. The works, at which over 200 hands were employed, had to be stopped and the men sent away, and the plaintiffs lost the profits otherwise obtainable from their business, and were seriously inconvenienced. The action was then commenced, and the plaintiffs claimed £100 damages. The defendants denied liability and alternatively said that forty shillings, the statutory penalty for failure to supply, was the measure of the damages that could be recovered. Bigham, J., held that the penalty clause applied equally whether the defendants supplied electrical energy to an owner or occupier under their general powers and regulations or under a special agreement, and that being so, the action for damages in the High Court could not be maintained, as the penalty alone could be sued for. The plaintiffs appealed and contended that by the agreement, wholly apart from the Act, they were entitled to sue for damages, and that they had no remedy by way of penalty. For the defendants it was urged that the agreement, which was made under section 65 of the Act—a section allowing terms to be come to as to the price—did not affect section 62, the penalty section, or take away the statutory remedy for the recovery of penalties upon the defendants' failure to supply.

THE COURT (LORD ALVERSTONE, C.J., and BUCKLEY and KENNEDY, L.J.J.) held that the Act did not preclude an agreement for the supply of electrical energy being made not subject to section 62. It followed, therefore, that the plaintiffs were entitled to sue for damages for breach of contract. The appeal was accordingly allowed with costs.—COUNSEL, *Danckwerts, K.C., and Whately (Hugo Young, K.C., with them); Iush, K.C., and T. Hollis Walker.* SOLICITORS, *Ward, Perks, & McKay; F. FitzPayne, for H Perkins, Town Clerk, Loughborough.*

[Reported by ESKINE REID, Barrister-at-Law.]

**Re TAFF VALE RAILWAY AND CARDIFF UNION AND RADYR OVERSEERS.** 18th, 21st Oct.

**POOR RATE—RAILWAY—VALUATION—DIRECTLY OR INDIRECTLY PRODUCTIVE PORTIONS OF HEREDITAMENTS—RELIEF LINES.**

*Relief lines, for rating purposes, must be treated as directly productive.*

Appeal by the Cardiff Union and the Radyr Overseers from a decision of Bigham, J., upon the award of an arbitrator stated in the form of a special case, raising the question on what basis certain relief lines within the parish should be rated to the poor rate. The special case set out that a branch of the Taff Vale Railway was mainly used for the conveyance of coal from certain collieries to Penarth Docks for shipment. The output of coals from the collieries was fairly constant, but the rate of shipment was irregular. The collieries had little siding accommodation on which loaded trucks could stand, and in order that the working of the collieries might

not be stopped when ships were not ready to take delivery of coal, the railway company daily took loaded wagons from the collieries and delivered empty wagons returning from the docks there. The branch of the railway in question ran between the colliery and the docks through the parish of Radyr, and there were in addition to the main running lines a series of relief lines in the nature of loop lines. The arbitrator found that the main and primary purpose for which the relief lines were constructed was to relieve the traffic on the main running lines, and that these lines were directly productive of profit to the company, and that 85 per cent. of the gross receipts of the company in the parish were earned by wagons which traversed one or more of the relief lines, but did not traverse the adjacent portion of the main running line. He accordingly made his award on the footing that the relief lines were, in the valuation of the railway, to be treated as directly productive and not as indirectly productive. Bigham, J., held that the question was one of fact, and from the finding of fact upon the authorities it followed that these relief lines must be regarded as directly and not indirectly productive. He accordingly gave judgment for the railway company. The Cardiff Union and the Radyr Overseers appealed, and on their behalf it was submitted that the lines should be treated as indirectly productive, and reliance was placed on the decisions on *London and North-Western Railway v. Wigan Union* (1876, 2 Nev. & Mac. 24) and in *Re Great Northern Railway and Edmonton Union* (93 L. T. 479).

THE COURT (LORD ALVERSTONE, C.J., and BUCKLEY and KENNEDY, L.J.J.), without hearing counsel for the respondents, affirmed the decision appealed from, following the rule laid down in *Stockport Union v. London and North-Western Railway* (67 L. J. Q. B. 335, 78 L. T. 180), and dismissed the appeal with costs.—COUNSEL, *Abel Thomas, K.C., Macmorran, K.C., and A. J. David; Balfour Browne, K.C., C. A. Russell, K.C., and W. D-nman Benson.* SOLICITORS, *George David & Evans, Cardiff; Williams, Hill, & Co., for Ingledew & Sons, Cardiff.*

[Reported by ESKINE REID, Barrister-at-Law.]

## High Court—Chancery Division.

**Re DE MOLEYS AND HARRIS'S CONTRACT.** Joyce, J. 17th Oct.

**VENDOR AND PURCHASER—TRUSTEE'S POWER OF SALE—TENANT FOR LIFE A LUNATIC NOT SO FOUND BY INQUISTION—SETTLED LAND ACT, 1882 (45 & 46 VICT. C. 38), s. 56, SUB-SECTION 2, AND s. 53—LUNACY ACT, 1890 (53 & 54 VICT. C. 5), ss. 116 AND 128—REAL ESTATE—CONSENT OF TENANT FOR LIFE TO SALE BY TRUSTEES—AUTHORITY OF QUASI-COMMITTEE OR RECEIVER OF LUNATIC TO GIVE CONSENT.**

*The consent of a tenant for life who is a lunatic not so found by inquisition under section 56, sub-section 2, of the Settled Land Act, 1882, to a sale of real estate cannot be exercised by his quasi-committee. The power of consent under the last-named sub-section is not vested in the tenant for life in the character of a trustee, nor is it a check upon the undue exercise of the power in the trustees within the meaning of section 128 of the Lunacy Act, 1890. Trustees under a will having a power of sale over real estate without consent of the tenant for life agreed to sell the real estate to a purchaser. The tenant for life was a lunatic not so found by inquisition. The vendors obtained the consent of the quasi-committee of the lunatic under an order under section 116 of the Lunacy Act, 1890, enabling the quasi-committee to exercise the power of consent required by the Settled Land Act, 1882, s. 56, sub-section 2. The purchaser's objection that the quasi-committee had no power to exercise the consent, and that the vendors had not made out a good title, upheld.*

*Re Baggs* (1894, 2 Ch. 416) applied.

Adjourned summons.

Joyce, J.—This is a vendor and purchaser summons, in which the applicant is vendor and the respondent purchaser. The applicants, who are trustees, have a power of sale under a will which they have attempted to exercise by selling to the respondent. There is a tenant for life, and section 56 of the Settled Land Act, 1882, requires that the trustees having a power of sale should not exercise the power without the consent of the tenant for life. The tenant for life is a lunatic not so found by inquisition, with respect of whose estate an order has been made under section 116 of the Lunacy Act, 1890, in favour of an applicant generally called a quasi-committee, and it is said that the quasi-committee can either by himself or with leave under that section 116, by reason of section 128 of the Lunacy Act, 1890, give the consent required by section 56 of the Settled Land Act, 1882, it being urged that it is a case of a consent of a lunatic to be exercised necessarily in the character of a trustee, and that the tenant for life gives this consent in the character of a trustee under section 53 of the Settled Land Act, 1882, which provides that "a tenant for life shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement. Now, this question was raised, and is discussed as regards the power of sale of the tenant for life under the Settled Land Act, 1882, in *Re Baggs* (1894, 2 Ch. 416), where it was held that the power of sale given to a tenant for life is not a power vested in the lunatic in the character of a trustee. After all that has been said in *Re Baggs*, and in other cases, I must follow that decision, which is past questioning, and, speaking with respect to the learned judges who decided it, I entirely agree with it. If a power of sale under the Act is not a power vested in the tenant for life in the character of a trustee, it is almost impossible to declare that the power of consent is vested in the tenant for life in the character of a trustee. The tenant for life is not bound to consent in any way. No doubt the tenant for



life when selling or consenting is in the actual exercise of the power called upon to perform those acts in the character of a person in a judiciary position, but he is not in that position until he does exercise the power of sale or consent, therefore the power of consent is not vested in him in the character of a trustee. Now, is it a power vested in him as a check upon undue exercise of the power in the trustees? I think not. It is not a case of a consent required by the settlement itself to an act of the trustees. The Settled Land Act, 1882, requires a consent by the tenant for life to any exercise at all by the trustees of that power of sale, and I do not think that the exercise of such a power of consent can properly be called a check upon the power of sale in the trustees. The purchaser's objection succeeds, and there must be an order accordingly.—COUNSEL, *E. W. Martelli; J. G. Wood. SOLICITORS, Lawrance, Webster, Messer, & Taylor; Carthew & Wheeler, for Barry & Harris, Bristol.*

[Reported by A. S. Orré, Barrister-at-Law.]

**Re THE DISCOVERERS FINANCE CORPORATION (LIM.).** Parker, J.  
15th, 16th, and 17th Oct.  
COMPANY—CONTRIBUTORY—TRANSFER OF SHARES TO ESCAPE LIABILITY—  
EQUITY BETWEEN THE PARTIES TO THE TRANSFER.

*Where a transfer of shares to a pauper by a contributory to a company, made for the purpose of evading liability, is sought to be set aside by the company, the intention to make an out-and-out transfer is not a complete test, but the court will also take into consideration the equity between the parties to the transaction as to whether the transaction is bona fide or merely colourable.*

This was an application by the liquidators appointed on the winding up of the Discoverers Finance Corporation (Limited) to rectify the list of contributories of the company by placing George Beverley Cooper upon such list as a member in class A in respect of 5,000 ordinary shares of £1 each, in the place of Lake Broadfoot, whose name then appeared upon the list as a contributory in respect of such shares. The company was formed for the purpose of exploiting certain mining property in Canada, but finding itself in embarrassed circumstances, the company went into voluntary liquidation in March, 1906. On the ordinary shares only 7s. 6d. had been paid up, leaving an unpaid liability in respect of each share of 12s. 6d. Cooper, who was the holder of 5,000 ordinary shares, having information that things were not going well with the company, was anxious to get rid of his liability in respect of these shares, and accordingly transferred the shares under the following circumstances to Lake Broadfoot, whom Cooper had befriended and educated, and was sent for by Cooper, who placed before him a transfer already prepared and stamped, and asked him to sign the paper in order to relieve him (Cooper) from his liability. At first Broadfoot demurred on the ground of possible risk, but Cooper assured him that there was no real risk, because the company would never attempt to enforce the claim against a person who could not possibly pay anything, and ultimately Broadfoot consented to sign the transfer. Cooper, in his evidence, said that though his chief object was to get rid of his liability on the shares, yet any benefit that might accrue would belong to Broadfoot. The consideration in the transfer was inserted as £50, and Cooper said he did this because the real consideration would have looked ridiculous. Broadfoot never really considered himself the bona fide holder of the shares, but, on the contrary, he looked to Cooper to relieve him from any liability in which the shares might involve him, and when he was called upon to pay the transfer fee of 2s. 6d. he asked Cooper for the sum, and Cooper promised to pay it, although he never in fact did so. Cooper, who also held fully-paid deferred shares in the company, appeared to have sent Broadfoot for his signature a form of proxy relating to the shares in question.

PARKER, J., in giving judgment, said that there was a considerable conflict of evidence in the case, and after stating the facts (as his lordship found them), continued: I cannot doubt that, considering the relations between the parties to this transaction, the absence of any consideration moving from Cooper to Broadfoot, and the fact that the latter had no independent advice and that Cooper was the very person to whom he would look for advice in the matter, Broadfoot had from the first, and still retained, an equity to repudiate the transaction. Indeed, it appears to me that the only way of treating the transaction as honest and reasonable on Cooper's part was to assume that it was Cooper's intention to see Broadfoot safely through the liability. The question is whether, under these circumstances, the liquidators have a right to put Cooper on the list of contributories. It is said that I cannot consider any equity which may exist between Cooper and Broadfoot, but that the only test is whether there was an out-and-out transfer in the sense that both liability and any possible benefit was transferred to the transferee. It appears to me clear that if any interest is retained by the transferor, or if the transfer is made on the terms that he will indemnify the transferee, the court will interfere and rectify the list. I do not, however, think that the real test is confined to whether there has been an out-and-out transfer, but I must also consider the surrounding circumstances. The cases most analogous to the present case are *Castello's case* (2 De G. F. & J. 302) and *Budd's case* (3 De G. F. & J. 297). In *Castello's case* Knight-Bruce, L.J., said (at p. 307): "I am of opinion upon the evidence that there was no real bargain, no true contract, nothing approaching any idea of a substantial sale, but that the whole was an unfair device for the purpose of enabling the son to escape in an indirect and improper manner from a liability imposed upon him by law by substituting in his own place a person who was unable to pay, and who would in all probability be assisted in any distress or difficulties, which might be occasioned to

him by the alleged transfer by the person who for his own purposes placed him in that position." I think that every word of that is applicable to the present case. There was here no real sale, no bona fide intention of making a gift, but the whole was an unfair device for the purpose of enabling Cooper to escape liability. In *Budd's case* Knight-Bruce, L.J., says (at p. 302): "In this case, considering the respective stations in life of the appellant Mr. Budd and Mr. Crocker, the former a solicitor, the latter a farm bailiff, and the fact especially that he was the farm bailiff of Mr. Budd—considering the gratitude for kindness shown or services rendered at some earlier period or periods to Mr. Crocker by Mr. Budd or some member or members of his family, which Mr. Crocker probably or certainly felt—considering the utmost amount of information as to the nature and possible effect or consequences of the transaction of assigning the shares in question to him, which before or at the time of accepting the assignment he can upon the testimony before us be taken to have had, and considering that in the transaction or with respect to it he had, if any protector or adviser, none but Mr. Budd alone, I am, upon the evidence, satisfied that Mr. Crocker had originally, nor ever ceased to have, a perfectly good title as between himself and Mr. Budd to be relieved in equity against the assignment, and placed so far as possible in the same position as if it had not existed. For every substantial purpose, therefore, as between them there has, I conceive, been continually since the assignment a clear right in equity on the part of Mr. Crocker to reject the transfer." I think that the fact that Knight-Bruce, L.J., considered that the equity between the parties to the transfer was enough to show that the transaction was colourable is sufficient authority in the present case to show that the transaction is not bona fide, and I hold, therefore, that Cooper must be placed on the list of contributories and must pay the costs of the summons.—COUNSEL, *Eve, K.C., and Galloway; H. Terrell, K.C., and Clayton. SOLICITORS, Charles Dunderdale; Rising & Ravenscroft.*

[Reported by LEONARD T. FORD, Barrister-at-Law.]

## High Court—King's Bench Division.

**STEVENS v. STEVENS.** Coleridge, J. 22nd Oct.

INJUNCTION—TRISPASS—MOTHER AND SON—PARENTAL OBLIGATIONS—  
GRAVE CIRCUMSTANCES—DISCRETION.

*A son, aged forty-nine, who had run through all his interest under his father's will insisted on visiting his widowed mother's house and living there. In an action by the mother against the son for an injunction to restrain the son from continuing to annoy her, evidence was given that the son's conduct had seriously affected her health.*

*Held, that as a mother was under no obligation to maintain a son who was grown up and capable of earning his own living, the question whether an injunction should issue was within the discretion of the judge, and that the circumstances giving rise to the application for an injunction were here so grave as to warrant the injunction being granted.*

*Waterhouse v. Waterhouse* (22 T. L. R. 195) considered.

Action for an injunction. The plaintiff, Mrs. Rosamund Stevens, a widow, claimed an injunction to restrain her son Percy, who was forty-nine years of age, from breaking and entering her dwelling-house at South Kensington. The evidence so far as material was that in 1902 the defendant returned from Australia, where he had squandered all his means, and paid his mother a visit and remained in her house until 1903, when he was forcibly ejected. He, however, on more than one occasion effected an entrance, and in July of the present year the plaintiff commenced proceedings and obtained an interim injunction, and the judge (Pickford, J.) committed the defendant to prison for breach of that injunction, but on his giving an undertaking not to commit further breaches the order was not carried out. No evidence was called on behalf of the defendant, but the point was raised that the case was not one in which the High Court could interfere by injunction, as the defendant ought to be dealt with under the Vagrancy Acts, and *Waterhouse v. Waterhouse* (22 T. L. R. 195) was cited.

COLERIDGE, J., in giving judgment, said it was argued for the defendant that whatever might be the age of the child, the court had no power in law to grant such an injunction as the plaintiff asked for in the present case. That argument was based on the case of *Waterhouse v. Waterhouse*. But the facts of that case differed from these. In that case a father sought an injunction against a son, but there was no allegation, as here, that the presence of the son in his father's house had injured the father's health or done anything except put him to expense. That case was tried by Buckley, J., who left open the question which he now had to decide, because that learned judge said, "Under circumstances, an injunction to restrain the defendant—even though the defendant be the plaintiff's son—from entering on premises would be right." It was clear that the defendant had no right to occupy his mother's house, and therefore the granting of an injunction was a matter within the discretion of the court. The case referred to furnished a warning that an injunction ought not to be granted except in very grave circumstances. In his opinion the circumstances here were very grave. The plaintiff was a widow lady, seventy-two years of age, and this annoyance seriously affected her health. Injury to health was the gravest circumstance—next to injury to life—

and he should grant an injunction on the terms demanded. Judgment for the plaintiff accordingly.—COUNSEL, *Holman Gregory*; *H. J. Turrell*. SOLICITORS, *Kingsford, Dorman, & Co.*; *H. Pierson*.

[Reported by *ERASME REID*, Barrister-at-Law.]

## Law Students' Journal.

### Law Students' Societies.

LAW STUDENTS' DEBATING SOCIETY.—Oct. 15.—Chairman, Mr. R. P. Croom-Johnson.—The subject for debate was: "That the case of *Oppenheimer v. Fraser and Watts* (1907, 2 K. B. 50) was wrongly decided." Mr. C. P. Blackwell opened in the affirmative, Mr. J. Richardson seconded in the affirmative; Mr. A. B. Russell opened in the negative, Mr. C. Stanley Krauss seconded in the negative. The following members also spoke: Messrs. Blagden, Harnett, Handley, Pleadwell, Dolman, Young, Margetts, Blanco-White. The motion was lost by three votes.

## Legal News.

### Appointments.

MR. CECIL HENRY RUSSELL, barrister-at-law, has been elected Treasurer of the Honourable Society of Lincoln's Inn for the ensuing year, in succession to Lord Macnaghten, but he will not enter upon the duties of the office until the 11th of January.

MR. EDWARD TANNER, solicitor, has been appointed Solicitor to the London County Council, in succession to Mr. Seager Berry, resigned.

MR. ARTHUR HILL TREVOR, barrister-at-law, Secretary to the Commissioners in Lunacy, has been appointed a Commissioner in Lunacy in the room of Mr. George Harold Urmon, deceased.

MR. ERNEST JOHN WILNERFORCE, barrister-at-law, has been appointed Secretary to the Commissioners in Lunacy, on the resignation of Mr. Arthur Hill Trevor, appointed a Commissioner.

### Changes in Partnerships.

#### Dissolutions.

FREDERIC HILLS BROWN OGDEN and CLAUDE MATHIAS, solicitors (Maddocks & Co.), Coventry and Colehill. Sept. 23. [*Gazette*, Oct. 18.]

SAMUEL ORMER SAMUELS and ROBERT ARTHUR WRIGHT, solicitors (Samuels & Wright), Manchester. Aug. 10. The said Samuel Ormes Samuels is now practising on his own account at 9, Mount-street, Manchester, and the said Robert Arthur Wright is now practising on his own account at 16, John Dalton-street, Manchester. [*Gazette*, Oct. 22.]

#### General.

It is announced that the centre of South-square, Gray's Inn, opposite Gray's Inn Hall, will shortly be converted into a grass plot, with flower beds, and a fountain will also be erected in the middle.

With regard to successive generations of judges, a correspondent of the *Times* says that Sir James Dundas, of Arncliffe, was a senator of the College of Justice, and died 1679; that his son and heir Robert was a senator of the College of Justice, and died 1727; that his son and heir Robert was Lord of Session 1737, and Lord President of the Court of Session 1748, he died 1753; that his son and heir Robert was Lord President of the Court of Session 1760, and died 1787; that his son and heir Robert was Lord Chief Baron of Exchequer in Scotland 1801, also a Privy Councillor, and died 1819. All five were judges of the Court of Session in direct lineal descent.

Considerable interest has been created by the announcement of the engagement of the Lord Chancellor to Miss Violet Elizabeth Hicks-Beach, the eldest daughter of Mr. W. F. Hicks-Beach, of Witcombe Park, Gloucestershire. Lord Loreburn is sixty-one years of age and a widower, his wife having died three years ago. In Ireland, says the *Westminster Gazette*, the marriage of a Lord Chancellor would wear no aspect of novelty. In the last century no fewer than five Lord Chancellors married—Lord Redesdale, Lord Manners, Sir Mazie Brady, Lord O'Hagan, and the late Right Hon. John Nash. Lord Redesdale and Mr. Nash were bachelors; Lord Manners, Sir Mazie Brady, and Lord O'Hagan were widowers.

A Scotch proprietor determined, says the *Evening Standard*, to allow no more fees on his estate. Very soon a highland farmer called, and asked for this particular form of holding. The agent had courteously to refuse, but sought to allay the annoyance of the farmer by telling him that the laird would give him instead a lease of 999 years. The old farmer was still far from satisfied. "Time soon runs awa'," he said, dolefully shaking his head. This story was told to the President of Magdalen College, Oxford, who was in a position to show that to those who live at some particular turning-point it is possible to realise that time does indeed run away. For the president was able to tell his informant that there had just fallen in a lease granted by one of the Oxford colleges four centuries previously.

The revision court which was held recently in a North Country vicarage garden is, says the *Westminster Gazette*, by no means the first instance of a court held in the open air. Not long ago Judge Snagge, of the Oxfordshire County Court, decided a question of ancient lights under a spreading tree, which served the useful purpose of an umbrella for his honour; and at Hoole a police-court trial was witnessed in the street, the prisoner being too ill to be removed from a cab. The magistrate at the Marlborough police-court had a prisoner of uncleanly habits taken for trial into the yard at the back of the court; while the inquest on the victims of the Handcross Hill motor-bus disaster was held on the lawn of a country inn. The Long Vacation, however, usually produces the most interesting examples of *ad hoc* administration of justice. Sir William Grantham has more than once been intercepted on his way to a meet of the hounds to hear applications for injunctions and so on; and Mr. Justice Bucknill was similarly run to earth while slaughtering pheasants.

The House of Lords, unlike the Court of Appeal, has, says a writer in the *Globe*, got rid of its arrears. Only eleven appeals are entered in the Law Lords' list. In litigation, no less than in more important matters, England is the predominant partner. Ten of the eleven appeals are from the English courts, the remaining one coming from north of the Tweed. Two patent cases are entered: in one, *Haskell Golf Ball Co. v. Hutchinson*, the question to be decided is whether the patent for the making of a well-known golf ball is void for want of novelty; in the other, *Bayer v. Symington & Co.*, the Law Lords will have the task of considering the copyright in designs for ladies' corsets. Other appeals standing for hearing are *Armstrong, Whitworth, & Co. v. Consolidated Pneumatic Tool Co.* and *Guardians of West Ham Union v. Guardians of Edmonton Union*. The only peerage claim in the list—*Airth (Earldom)* is its official description—was entered for hearing some eighteen months ago, but the delay in the hearing of peerage claims is not always to be attributed to the Law Lords.

Sitting at the Lord Mayor's Court, on the 17th inst., says the *Times*, the Recorder complained of his inability to proceed with the business of the court owing to the absence of counsel. At the conclusion of the first case the parties were not ready to proceed with the next in order, and, in a case where the parties were ready, one of the counsel did not appear. The judge said that, during the twenty years while he was practising at the bar, it was the practice of counsel who were unable to be in two places at once to get other counsel to watch their interests. A practice had now grown up of counsel not getting some one to guard their interests. It frequently happened when a case was called for hearing, and counsel in the case was not present, for some one to get up and say a counsel was away in another court. The judge ought to strike such cases out, but in doing so he would be visiting the sins of the counsel upon the client, which was not in accordance with his sense of justice. At the same time, he thought the jury, who were busy men, had reason to complain. If such a practice continued, it would result in his allowing the solicitor in the case being heard. He hoped counsel would take note of what he had said.

It does not appear, says the *Law Quarterly Review*, whether Mr. Lodewyk Johannes de Jager, of Waschbank, Natal, had read Hobbes' "Leviathan." He acted, however, as if he had hastily taken up Hobbes' opinion that the cessation of the sovereign's protection dissolves the commonwealth and determines the subject's duty of allegiance; at least that is so, he maintained, where only the temporary allegiance of a resident alien is in question. He was a burgher of the late South African Republic, and when its forces occupied Waschbank in the autumn of 1899, he accepted both military and civil office under its temporary jurisdiction. The Natal Court did not agree with him after the restoration of British government, and the Judicial Committee thought the case too clear for them to grant special leave to appeal: *De Jager v. Attorney-General of Natal* (1907, A. C. 326, 76 L. J. P. C. 62). "The protection of a State does not cease merely because the State forces, for strategic or other reasons, are temporarily withdrawn, so that the enemy for the time exercises the right of an army in occupation. . . . It would be intolerable, and must inevitably end in a restriction of the international facilities now universally granted, if, as soon as an enemy made good his military occupation of a particular district, those who had till then lived there peacefully as aliens could with impunity take up arms for the invaders. . . . There is no authority which compels their lordships to arrive at so strange a conclusion." Hobbes, it should be noted, holds that the commonwealth is dissolved only when its forces keep the field no longer: "Leviathan," c. 23, *ad fin.*

## Court Papers.

### Supreme Court of Judicature.

Date.	ROYAL ROYALTY IN ATTENDANCE ON			
	EMERSONY APPEAL COURT	MR. JUSTICE KEEBLE.	MR. JUSTICE JONES.	
Monday, Oct. . . . . 28	Mr. Carrington	Mr. Blosam	Mr. Borer	Mr. Leach
Tuesday . . . . . 29	Beal	Syng	Goldschmidt	Theod
Wednesday . . . . . 30	Church	Blosam	Borer	Leach
Thursday . . . . . 31	Greswell	Syng	Goldschmidt	Theod
Friday, Nov. . . . . 1	King	Blosam	Borer	Leach
Saturday . . . . . 2	Farmer	Syng	Goldschmidt	Theod
Date	MR. JUSTICE SWINER EADY. MR. JUSTICE WARRINGTON. MR. JUSTICE NEVILLE. MR. JUSTICE PARKER.			
	MR. JUSTICE SWINER EADY.	MR. JUSTICE WARRINGTON.	MR. JUSTICE NEVILLE.	MR. JUSTICE PARKER.
Monday, Oct. . . . . 28	Mr. Farmer	Mr. Greswell	Mr. Beal	Mr. Syng
Tuesday . . . . . 29	King	Church	Carrington	Blosam
Wednesday . . . . . 30	Farmer	Greswell	Beal	Theod
Thursday . . . . . 31	King	Church	Carrington	Leach
Friday, Nov. . . . . 1	Farmer	Greswell	Beal	Goldschmidt
Saturday . . . . . 2	King	Church	Carrington	Borer



# COURT OF APPEAL.

MICHAELMAS SITTINGS, 1907.

(Continued from p. 813.)

## FROM THE KING'S BENCH DIVISION.

(Final List.)

1907.

- Bamberger and anr v Barnett appl of deflt from judgt of Mr Justice Ridley, dated June 22, 1907, without a jury, Middlesex July 6
- Vizard v Wolfe (trading as J. King) appl of plttf from judgt of Justices Darling and A T Lawrence, dated June 21, 1907 July 8
- Spencer v Lane appl of deflt from judgt of Mr Justice Ridley, dated June 26, 1907, without a jury, Monmouth July 10
- Mary Forster and ors v Elvert Colliery Co ld and ors appl of defts A B Dyson, F E Crawford and T C Crawford from judgt of Mr Justice Ridley, dated June 28, 1907, without a jury, Durham July 13
- J E Quinn v Same appl of Same from judgt of Mr Justice Ridley, dated June 28, 1907, without a jury, Durham July 13
- R Reed v Same appl of Same from judgt of Mr Justice Ridley, dated June 28, 1907, without a jury, Durham July 13
- M E Morgan v Same appl of Same from judgt of Mr Justice Ridley, dated June 28, 1907, without a jury, Durham July 13
- Hodson v Walter appl of deflt from judgt of Mr Justice Jelf from Chambers, dated July 2, 1907 July 15
- East London Ry Joint Committee v The Assessment Committee of the Greenwich Union and anr appl of appts from judgt of the Lord Chief Justice and Justices Darling and A T Lawrence, dated June 20, 1907 July 16
- Same v The Assessment Committee of the Metropolitan Borough of Bermondsey appl of Same from judgt of The Lord Chief Justice and Justices Darling and A T Lawrence, dated June 20, 1907 July 16
- The Electro Mobile Co ld v The British Electro Mobile Co ld and ors appl of plttf from judgt of Mr Justice Warrington, dated June 20, 1907, without a jury, Middlesex July 23
- Barrett v Frost appl of deflt from judgt of Mr Justice Phillimore, dated June 27, 1907 (special case) July 24
- In re Arbitration Act, 1889 and In re the Matter of an Arbitration between The Holland Steam Ship Co and National Steam Ship Co v The British Steam Navigation Co ld appl of plttf Co from judgt of Mr Justice Phillimore, dated July 11, 1907 (special case) July 24
- Goddard v Rust appl of deflt from judgt of Mr Justice Chinnell, dated May 17, 1907, without a jury, Leicester July 29
- Fox v Bernstein appl of plttf from judgt of Mr Justice Darling, dated July 13, 1907, without a jury, Middlesex July 30
- Clark v Morley appl of plttf from judgt of Mr Justice Pickford, dated July 16, 1907 Aug 1
- Attorney-General on the relation of the Staines U D C v Ashby appl of deflt from judgt of Mr Justice Joyce, dated May 3, 1907, without a jury, Middlesex Aug 2
- Woolven v Gavin appl of plttf from judgt of Mr Justice Lawrence, dated July 27, 1907, without a jury, Middlesex Aug 2
- Cunningham and anr v Day appl of deflt from order of Mr Justice A T Lawrence, dated July 27, 1907, without a jury, Middlesex Aug 3
- The King v Jj of the County of London appl of South Met Gas Co from judgt of Justices Bray and A T Lawrence, dated July 26, 1907 Aug 6
- Francis v Feige appl of plttf from judgt of Mr Justice Pickford, dated June 22, 1907, with a common jury, Middlesex Aug 8
- In re Taxation of Costs and In re J J Edwards, a solr appl of H S Howell from judgt of Mr Justice Pickford in Chambers, dated July 22, 1907 Aug 8
- Wilson v Carnley appl of deflt from judgt of Lord Coleridge, KC (Commr of Assize), dated July 31, 1907, with a special jury, Lincoln Aug 12
- Carlisle Rural District Council v Mayor, Aldermen, and Citizens of Carlisle (W Kennedy ld, 3rd parties) appl of plttf from judgt of Mr Justice Chinnell, dated July 6, 1907, without a jury, Manchester Aug 15
- Attorney-Gen (Informant) v Duke of Richmond, Gordon, and Lennox (Revenue Side) appl of Informant from judgt of Mr Justice Bray, dated July 30, 1907 Aug 16
- Dewar v Scott & Co appl of defts from judgt of Mr Justice Phillimore, dated June 29, 1907, without a jury, Middlesex Aug 16
- Stephens v Zapiga Nitrate Co ld appl of defts from judgt of Mr Justice Phillimore, dated July 31, 1907 Aug 21
- Daniel & Jones v Avery appl of plttf from judgt of Mr Justice Sutton, dated Aug 16, 1907, without a jury, Birmingham Aug 28
- Winans and anr v The King, Petition of Right (Revenue Side) appl of petns from judgt of Mr Justice Bray, dated July 16, 1907 Sept 3

## FROM THE PROBATE, DIVORCE, AND ADMIRALTY DIVISION (ADMIRALTY).

With Nautical Assessors.

(Final List.)

1907.

- Gordon—1906—Folio 556 The Owners of Schooner Gordon v The Cape Copper Co ld (damage) appl of dfts from judgment of Mr Justice Bargaive Deane, dated March 20, 1907 May 4
- Aristocrat—1906—Folio 523 The Owners of SS Rijnsdroom v The Great Central Ry Co (damage) appl of plttf from judgt of Mr Justice Bucknill, dated May 16, 1907 June 4

- Guildhall—1906—Folios 537 and 541 (consolidated) General Steam Navigation Co ld v The Owners of SS Guildhall (damage) appl of plttf from judgt of Mr Justice Bucknill, dated May 13, 1907 June 6
- Daisy—1907—Folio 324 The Owners of Steamship Kurtail v Owners of Steamship Daisy (damage) appl of defts from judgt of Mr Justice Bargaive Deane, dated June 21, 1907 July 22
- City of Berlin—1907—Folio 35 Owners of Steam Tug Carl Kiehn and ors v Owners of Steamship City of Berlin (damage) appl of plttf from judgt of Mr Justice Bargaive Deane, dated June 17, 1907 July 25
- Koning Willem II—1906—Folio 369 The Isle of Caldy Steamship Co and ors v The Owners of the Steamship Koning Willem II (damage) appl of plttf from judgt of Mr Justice Bargaive Deane, dated July 15, 1907 Aug 1

## Without Nautical Assessors.

- Andre Theodore—1905—Folio 37 Louvet and ors v Proceeds of Sale of the Sailing Vessel Andre Theodore (wages) appl of plttf from judgt of Mr Justice Bargaive Deane, dated May 14, 1906 (restored June 3, 1907) July 3

Todd's Law of Building and Dilapidations, now in the press, will be issued shortly by Eyre & Spottiswoode. The work is a practical guide to the law of building from the standpoint of the form of extract and conditions issued by the Royal Institute of British Architects, and will be found most useful to solicitors, architects, and builders.—[ADVT.]

# Winding-up Notices.

London Gazette—FRIDAY, Oct. 18.

## JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

- BAHAMAS (INAGUA) SIAL PLANTATION, LIMITED—Petn for winding up, presented Oct 16, directed to be heard on Oct 29. Brown & Co, Finsbury pavement, solors for petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of Oct 28.
- "BLOCK 42" HAMPTON PLAINS, LIMITED—Creditors are required, on or before Nov 23, to send their names and addresses, and the particulars of their debts or claims, to Alexander Parkes, 334, Moorgate Station chambers, liquidator.
- COLONISTS LAND AND LOAN CORPORATION, LIMITED—Creditors are required, on or before Nov 29, to send their names and addresses, and the particulars of their debts or claims, to Charles Dugald Buckler, Dashwood House, 9, New Broad st. Boatman, Lombard st, solor to liquidator.
- COLONADES, LIMITED—Petn for winding up, presented Oct 15, directed to be heard on Oct 29. Aldous, Old Jewry chambers, solor for petner. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of Oct 28.
- I.T.E. ELECTRIC CO, LIMITED—Creditors are required, on or before Nov 30, to send their names and addresses, and the particulars of their debts or claims, to Percy Frederick Huddleston, 72, Finsbury pavement, Jeboult, Walbrook, solor to liquidator. N.B.—This notice does not in any way relate to the I.T.E. Electric Co (1907), Limited.
- NATIONAL MOTOR MAIL COACH CO, LIMITED—Petn for winding up, directed to be heard on Oct 18, was adjourned and will be heard on Oct 29. Peters & Bolton, 6 Guildhall chambers, Basinghall st, solors for petner. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of Oct 28.
- R. COOK & CO, LIMITED—Creditors are required, on or before Nov 16, to send in their names and addresses, with particulars of their debts or claims, to John Thomas Hodgkinson, 1, Holmfild View, Gisburn rd, Barrowford, liquidator.
- SPORTS TRADING CO, LIMITED—Creditors are required, on or before Dec 2, to send their names and addresses, and the particulars of their debts or claims, to R. Walker, Aston Cross, Birmingham, liquidator.
- WANTWORTH STEAMSHIP CO, LIMITED—Creditors are required, on or before Nov 30, to send their names and addresses, and particulars of their debts and claims, to John Burns Adam, Exchange bldgs, Quay-side, Newcastle upon Tyne. Wilkinson & Marshall, Newcastle upon Tyne, solors for liquidator.
- WM. HOLLS & CO, LIMITED—Petn for winding up, presented Oct 15, directed to be heard on Oct 18. Piesse & Sons, Old Jewry chambers, solors for petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of Oct 28.

UNLIMITED IN CHANCERY.

- ANGLO-BICCHAN SULPHUR CO (IN LIQUIDATION)—Creditors are required, on or before Nov 22, to send their names and addresses, and the particulars of their debts or claims, to William Thomas Brand, 1, King's Arms yd, Coleman st, liquidator.

London Gazette.—TUESDAY, Oct. 22.

## JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

- ALLWEATHER & CO, LIMITED—Creditors are required, on or before Nov 31, to send their names and addresses, and particulars of their debts or claims, to Rupert Frederick William Fincham, 3, Watwick st, Holborn, liquidator.
- BOOTH, TAYLOR, & COLLINGS, LIMITED—Creditors are required, on or before Nov 2, to send their names and addresses, and the particulars of their debts or claims, to Mr Edward Rud, 16, Richmond ter, Blackburn. Carter & Collins, solors for liquidator.
- "GAZELLE" STEAMSHIP CO, LIMITED—Petn for winding up, presented Oct 17, directed to be heard at the Guildhall, Carmarthen, O.S. 31. Heider & Co, Clement's inn, Strand, for Jennings, L'anelly, solor to petners. Notice of appearing must reach the above-named not later than 6 o'clock in the afternoon of Oct 29.
- MEDICAL ELECTRO-THERMIC GENERATOR CO, LIMITED—Creditors are required, on or before Nov 11, to send their names and addresses, and the particulars of their debts or claims, to Herbert William Freshwater, 7 and 8, Railway app, London Bridge, liquidator.
- WIDENFIELD CONSTRUCTION CO, LIMITED—Creditors are required, on or before Nov 30, to send their names and addresses, and the particulars of their debts or claims, to W. G. H. Monypenny, 3, London wall bldgs, liquidator.

# Creditors' Notices.

## Under Estates in Chancery.

LAST DAY OF CLAIM.

London Gazette.—FRIDAY, Oct. 18.

- SMITH, WHALLEY, Hammerton Cliffe, Keighley, Worsted Manufacturer Nov 16 Manguisier & Co v Smith & Barra, Warrington, J. Sugden, Keighley

## Under 22 &amp; 23 Vict. cap. 35.

LAST DAY OF CLAIM.

London Gazette.—FRIDAY, Oct. 18.

ALVARADO, AQUILINO, Shirland rd, Paddington Nov 25 Crump & Son, Leadenhall st  
BAGNALL, MARGARET, Whitley Bay, Northumberland Nov 30 J D & L M Macdonald,  
Newcastle upon Tyne  
BARKER, ANN, Barby, Northampton Nov 18 Wratlaw & Thompson, Rugby  
BARKER, JANE, Barby, Northampton Nov 18 Wratlaw & Thompson, Rugby  
BART, GEORGE, Newcastle upon Tyne, Foreman Printer Nov 30 Gibson & Co, Newcastle  
upon Tyne  
BORTON, AGNES, Bickley, Kent Nov 30 Tatham & Co, Queen Victoria st  
BRACE, LOUISE MARIA, Popstone rd, Earl's Court Nov 18 Morgan & C, Old Broad st  
BUCK, ALBERT, Worcester, Land Agent Nov 30 Hyde & Sons, Worcester  
CLARKE, SIR WILLIAM JOHN, Sunbury, Victoria Nov 14 Blyth & Co, Old Broad st  
COOPER, MARY JANE, Scarborough Nov 18 Bart & Co, Leeds  
CROSS, MINNIE, Hampstead, Glos Nov 18 Ravenor, Northwich, Glos  
EATWAKES, CONSTANCE EMILY, Southsea, Hants Nov 15 Richardson & Co, Much Hatham,  
Herts  
FERRET, LOUISE, Upper Richmond rd, Putney Nov 18 Collyer & Davis, Abchurch ln  
FERRISMAN, GEORGE GALLAND, Howden, York, Tailor Nov 24 Green & Son, Howden  
FERKINS, JOSEPH, Ekington, Worcester Nov 30 Hudson, Pershore  
GLENDHILL, EMILY, Dalton, Huddersfield Dec 6 Hall & Co, Huddersfield  
GOODWIN, REV CHARLES FREDERICK COCKE, Colishall, Norfolk Nov 23 Francis & Bacy,  
Norwich  
HARDING, WILLIAM, Kemp Town, Brighton Nov 25 Fraser & Son, Dean st, Soho sq  
HEESON, HENRY, Warrington, Builder Nov 13 Steel, Warrington  
HEESON, HENRY AND JOSEPH, Warrington, Builders Nov 13 Steel, Warrington  
HOLFORD, FREDERICK, Hale, Chester Dec 1 Crofton & Co, Manchester  
HOLMES, ANN, Garswood, nr Chesterfield Nov 30 Ward, Chesterfield  
HOLROYD, ROBERT EDWARD, Bradford, Wool Comb Maker Dec 1 Mumf rd & Co, Bradford  
JAGGER, ANN, Church pl, Clapham Common Nov 25 Fraser & Son, Dean st, Soho sq  
JAMES, ISAAC, Gmore Vale, Glam, Licensed Victualler Nov 18 Stockwood & Williams,  
Bridgend  
JOHNSON, ROBERT, Newcastle upon Tyne, Yeast Salesman Nov 30 Gibson & Co, Newcastle  
upon Tyne  
LEDGER, EDWARD, St Paul's rd, Camden Town, Cab Proprietor Nov 14 Rawlings & But,  
Walbrook  
LEWIS, JAMES HAROLD, Huddersfield Nov 15 Jaycock & C, Huddersfield  
LEWIS, MARY, Watstone, Rhondda-fach, Glam Nov 18 Stockwood & Williams, Bridgend  
LEWIS, ELLEN, York, Dec 7 Crombie & Sons, York  
McDONALD, SARAH ELIZA, Southfields, Wandsworth Nov 17 Tickner, Gray's inn sq  
MINNETT, ELIZA, Woodmanote, Glos Oct 24 Cooksey & Co, Old Hill, Staffs  
MORLEY, ANNE MOORE, Derby Nov 30 Sale & Co, Derby  
OLDMAN, THOMAS, Greystone, nr Penrith Cumberland Nov 19 Cant & Fairer, Penrith  
PICKFORD, SARAH, King Sternale, Bakewell, Derby Nov 18 Gibbins & Arkle,  
Liverpool  
SENIOR, ELIZABETH, Lockwood, Huddersfield Nov 23 Ward & Hirst, Huddersfield  
STIRKINS, THOMAS MARSH, Crowley, nr Northwich, Chester, Farmer Nov 30 Browne &  
C, Warrington  
TOWNSON, EDWARD, Over Wyrevalle, Lancs, Husbandman Nov 15 Seal, Lancaster  
WARD, ALFRED, High Wycombe, Jankeeper Nov 1 Bliss, High Wycombe  
WHITEHEAD, JAMES, Fulseham Park, Walslow, Chester Nov 30 Cooper & Sons,  
Manchester  
WRIGHT, JANE ELIZABETH, Ryde, I of W Oct 31 Robinson, Ryde, I of W

## Bankruptcy Notices.

London Gazette.—FRIDAY, Oct. 18.

## RECEIVING ORDERS.

ALLIN, H P, Cannon st, Mercantile Agent High Court Pet Sept 25 Ord Oct 14  
ANDREWS, WALTER JOHN, Badminton, Bristol, Baker  
Bil tel Pet Oct 11 Ord Oct 15  
BAILY, WILLIAM, Palmerston Hill, Waltham Abbey,  
Baker Edmonston Pet Sept 18 Ord Oct 14  
BARBER, THOMAS VERNON HOLLINGSWORTH, Durcan tetr,  
Irlington, Fancy Hat Manufacturer High Court Pet  
Oct 14 Ord Oct 14  
BISHOP, JOHN, Link Top, Malvern, Worcester, Furniture  
Remover Worcester Pet Oct 14 Ord Oct 14  
CHALONER, THOMAS, Harwood, Salop, Builder Shrewsbury  
Pet Oct 16 Ord Oct 16  
CLEMENS, THOMAS JOHN, Croydon, Tailor Croydon Pet  
Oct 16 Ord Oct 16  
COLE, SAMUEL, Resolven, Glam, Collier Aberavon Pet Oct  
15 Ord Oct 15  
COPE, JOSEPH DOWSETT, Lewisham, Meat Salesman Green-  
wich Pet Oct 12 Ord Oct 12  
COSTER, ERNEST ANDREW, East Farleigh, Kent, Farmer  
Maidstone Pet Oct 4 Ord Oct 16  
COTTELL, WILLIAM ALEXANDER, Wallasey, Chester, Café  
Proprietor Liverpool Pet Oct 16 Ord Oct 16  
DAVIES, SARAH, and MARY JANE DAVIES, Colwyn Bay, Den-  
bigh, Lodging house Keepers Bangor Pet Oct 16  
Ord Oct 15  
DAVIS, BERNARD FRANK, Brighton, Fancy Warehouseman  
Brighton Pet Oct 14 Ord Oct 14  
DYER, JOHN, Dumborough, Northampton, Farmer North-  
ampton Pet Oct 16 Ord Oct 16  
EGLAND, HENRY, and ARTHUR JOHN EGLAND, Padstow,  
Cornwall, General Painters Truro Pet Oct 14 Ord  
Oct 14  
FELL, GEORGE, Nash Lea, Ebbwrosh, nr Tring, Bucks,  
Solicitor's Clerk Aylesbury Pet Sept 3 Ord Oct 15  
FIELD, JOHN ALBERT, and BENJAMIN ALFRED TALBOT, Bir-  
mingham, Lamp Manufacturers Birmingham Pet Oct  
16 Ord Oct 16  
GEORGE, WILLIAM JAMES, Cwmduare, Aberdare, Glam,  
Grocer Pontypidd Pet Oct 16 Ord Oct 16  
HALL, ROBERT HEDLEY, Colne Engine, Essex, Farmer  
Colchester Pet Oct 16 Ord Oct 16  
HEADLAND & SON, F, Billingshurst, Sussex, Woollen Mer-  
chants Brighton Pet Sept 14 Ord Oct 15  
HILL, GEORGE CHRISTOPHER, Glastonbury, Tailor Wells  
Pet Oct 14 Ord Oct 14  
HOLDS, THOMAS JUN, Canton Home, Westminster, Solicitor  
High Court Pet Aug 24 Ord Oct 15  
HOPKIN, WILLIAM HENRY, Louth, Upholsterer Gt  
Grimsby Pet Oct 14 Ord Oct 14  
HUMPHREYS, ALBERT EDWARD, Portsmouth, Chemist  
Portsmouth Pet Oct 14 Ord Oct 14  
JONES, ALUN, Trawsfynydd, Merioneth, Stationer Port-  
madoc Pet Oct 14 Ord Oct 14

KIRK, CHARLES, Higher Broughton, Salford, Butcher  
Salford Pet Oct 7 Ord Oct 14  
LAWSON, HENRY, York, Drapers' Assistant York Pet Oct  
15 Ord Oct 15  
LEE, ALBERT ARTHUR JAMES, Lower Clayton rd, Manu-  
facturer High Court Pet Sept 23 Ord Oct 16  
LUBBOCK, WOLFE, Grey Eagle st, Spitalfields, Timber  
Merchant High Court Pet Sept 20 Ord Oct 16  
MARDON, JOHN, Westbury upon Trym Bristol Pet Oct 15  
Ord Oct 15  
MERCIER, MAURICE, Salford, Electrical Engineer Salford  
Pet July 4 Ord Oct 15  
MERRY, FREDERICK, Leicester, Tool Maker Leicester Pet  
Oct 14 Ord Oct 14  
MITCHELL, THOMAS, East Grinstead, Builder Tunbridge  
Wells Pet Oct 14 Ord Oct 14  
PEARSON, GEORGE HENRY, Nottingham, Timber Merchant  
Nottingham Pet Oct 16 Ord Oct 16  
PICK, ANDREW, Devonport, Tailor Plymouth Pet Oct 2  
Ord Oct 14  
RADCLIFF, HENRY EDWARD, Darvall, Sheffield, Butcher  
Sheffield Pet Oct 16 Ord Oct 16  
RICHARDSON, FREDERICK WILLIAM BUTTON, Hastings,  
Stationer Hastings Pet Sept 27 Ord Oct 15  
ROBIN, FREDERICK WILLIAM, Devonport, Baker Plymouth  
Pet Oct 15 Ord Oct 16  
ROBINSON, JOHN HENRY, Bradford, Credit Draper Brad-  
ford Pet Oct 16 Ord Oct 16  
ROSE, LAMAR, West Southbourne, Bournemouth, Carpenter  
Poole Pet Oct 15 Ord Oct 15  
SHEPHERD, JOHN, West Hartpool, Durham, Auctioneer  
Sunderland Pet Oct 15 Ord Oct 15  
SHERWILL, JOHN, Paignton, Devon Plymouth Pet Oct 14  
Ord Oct 14  
SMITH, FREDERICK WILLIAM, Gt Yarmouth Gt Yarmouth  
Pet Oct 15 Ord Oct 15  
TRUSCOTT, WILLIAM, Stroud, Motor Dealer Bristol Pet  
Oct 15 Ord Oct 15  
WHITE, ALFRED, Weymouth, House Decorator Dorchester  
Pet Oct 15 Ord Oct 15  
WILLIAMS, LEWIS SWANES, Musician Swansea Pet Oct 15  
Ord Oct 15  
Amended notice substituted for that published in  
the London Gazette of Aug 30:  
EDWARDS & CO, G, Paradise st, Albert Embankment,  
Sand Merchants High Court Pet Aug 3 Ord Aug 16

## FIRST MEETINGS.

ALLIN, H P, Cannon st, Mercantile Agent Oct 29 at 11  
Bankruptcy bldgs, Carey st  
AVENT, DANIEL HERBERT, Plymouth, Haulier Oct 29 at 12  
7, Buxland terr, Plymouth  
BARBER, THOMAS VERNON HOLLINGSWORTH, Durcan tetr,  
Irlington, Fancy Hat Manufacturer Oct 29 at 11  
Bankruptcy bldgs, Carey st  
BISHOP, JOHN, Malvern, Worcester, Furniture Remover  
Oct 29 at 11.30 Off Rec, 11, Copenhagen st, Worcester  
BLINDELL, JOHN SAVILE, and CHARLES EDGAR WAKEFORD,  
Cardiff, Colliery Proprietors Oct 29 at 12 Off Rec,  
144, Commercial st, Newport, Mon

London Gazette.—TUESDAY, Oct. 22.

BRACE, ALFRED CHARLES, St John st, Clerkenwell, Silversmith Nov 30 Minet & Co,  
King William st  
BUCKNALL, MARY ANN, Bristol Nov 30 Lawrence & Co, Bristol  
CHISHOLME, JAMES, Derby Nov 30 Todd & Co, Chancery ln  
CLAMP, ROBERT, Fleet, Hants, Architect Dec 2 London & Carpenter, Budge row  
CLAY, ANNE, Doncaster Nov 26 Atkinson & Sons, Doncaster  
COUGRAVE, MARTHA, Abertawe, Warwick Nov 11 Fielders, Atherstone  
DAVIS, JOHN, Essex rd, Irlington Dec 2 Jones, Temple chambers, Temple ay  
EGERTON, LADY LOUISE CAROLINE, Weybridge Nov 25 Hills & Halsey, Lincoln's inn  
fields  
ELSKROOD, DAVID, Shanklin rd, Crouch End Dec 2 Evans & Co, Theobald's rd,  
Esford row  
FAIRBAIRN, WILLIAM, Aston, Birmingham Nov 5 Jaques & Sons, Birmingham  
FOGO, WILLIAM, Wigan, Handbill Distributor Nov 19 Campbell, Wigan  
FORREST, JOSEPH, Holbeck, Leeds Oct 21 Wilson, Leeds  
GLEAVE, ANN, St Anne's on the Sea, Lancs Dec 3 Lonsdale, St Anne's on the Sea  
GRANT, FREDERICK JOHN, Birmingham, Commission Agent Nov 23 Rabnett,  
Birmingham  
HALL, MARY, Greenhead, Northumberland Dec 2 Newlands & Newlands, Jarrow  
HORSBY, EDWARD WILLIAM, Farley, Surrey Dec 2 Phillips & Cummings, Sherborne ln  
HOWARD, WILLIAM, Lidington, Cambridge, Machine Proprietor Nov 29 Wortham & Co,  
Royaumont, Herts  
KIRKCALD, JOSEPH, Gt George st, Westminster, Civil Engineer Nov 30 Webb & Co, Essex  
st, Strand  
LEATHER, GEORGE HENRY, Bingley, Vitrol Manufacturer Nov 30 Jeffery, Bradford  
LEUNG, REYNOLD GARGOY, Beauport mansions, Chelsea Nov 1 Cooper & Co, Walbrook  
MADOLE, WILLIAM, Toft Monks, Norfolk, Farmer Nov 15 Rix & Sons, Beccles  
MARON, ROBERT WILLIAM, Soham, Cambridge, Farmer Oct 31 Bendaal & Sons,  
Newmarket  
O'BRIEN, HENRY NORMAN, Leeds Nov 30 Cousins, Leeds  
PALIS, CHARLES VYSE, Queen's Park, Regent's Park Nov 23 Stuart & Tull, Gray's inn sq  
PAUL, HENRY HOWARD, Boscombe, Hants, Entertainer Dec 31 Macarthur & Chaverton,  
Kings st, Chesapeake  
PEARSON, JAMES, Redgrave rd, Putney Nov 23 Hilder & Co, Jermyn st, St James's  
PETER, EMMA, Ovenden Nov 8 Dey, Halifax  
QUILTER, PHILIP JOHN, Pleshey, Essex, Farmer Nov 16 Hilliard, Chelmsford  
RAITH, WILLIAM, Darlington, Machinist Nov 12 Waitell, Northalerton  
ROBERTSON, JOHN, Manchester, Baker Nov 29 Cobbett & Co, Manchester  
ROPER, JOHN, Hollingburne, Kent Nov 12 Bracher, Maidstone  
SARKEY, FRANK, Milford Haven, Timber Merchant Nov 1 Dalton & Co, Haverfordwest  
SCOTT, GEORGE, High st, Camden Town, Boot Factor Dec 1 Dalton & Co, Southampton  
sq, Bloomsbury  
SCRIVENER, ANN FRICILLA, Sparkbrook, Birmingham Nov 15 Jaques & Sons,  
Birmingham  
SHARROCK, MARY ELIZABETH, Stockton Heath, Chester Nov 23 Willett, Warrington  
SMITH, MARY, Cattington, Nottingham Nov 30 Leman, Nottingham  
STUBBS, JANE, Swanswa Nov 16 Jones & Trehan, Swanswa  
THORNTON, ESTHER, Leicester Nov 23 Stevenson & Son, Leicester  
TODD, RICHARD FARMER, Edgbaston, Birmingham, Miller Nov 25 Glaisyer & Co,  
Birmingham  
TOMS, FREDERICK MARDON, North Haven Point, Parkstone, Dorset Dec 2 Vandercom &  
Co, Bush ln  
WARRE, FREDERICK RICHARD, Bedford sq Nov 20 Boodle & Co, Berkeley sq  
WEEKES HANNAH, Long Ashton, Somerset Nov 18 Sinnott & Son, Bristol  
WEEK, FREDERICK, St Anne's on the Sea, Lancs Dec 2 Lonsdale, St Anne's on the Sea

Boss, MICHAEL, Measham, Leicester, Boiler Maker Oct 29  
at 1 Off Rec, 47, Full st, Derby  
Boss, WILLIAM HENRY, Measham, Leicester, Engineer  
Oct 29 at 12 Off Rec, 47, Full st, Derby  
BROCKLEY, JOSEPH, Rugeley, Staffs, Draper Oct 23 at 11  
Swan Hotel, Stafford  
CLEMENS, THOMAS JOHN, Croydon, Tailor Oct 28 at 11.30  
134, York rd, Westminster, Bury  
ENESBY, HERBERT GAIMSTON BRAY, Gt Grimsby, Fur man  
Joiner Oct 23 at 11 Off Rec, St Mar's church, Gt  
Grimsby  
GYDE, HARRY WARWICK, Gt Winchester st Oct 29 at 2.30  
Bankruptcy bldgs, Carey st  
HARRIS, JOHN, Boscombe, Bournemouth Oct 28 at 9.30  
Messrs Curtis & Son, 158, Old Christchurch rd, Bourn-  
mouth  
HOBBS, THOMAS, jun, The Sanctuary, Westminster,  
Solicitor Oct 23 at 12 Bankruptcy bldgs, Carey st  
HUGHES, WILLIAM, Pontnyffendegad, Gwauna, Upper  
Cardigan, Licensed Victualler Nov 15 at 1 Townhall,  
Aberystwyth  
JOHNSON, ANDREW CAMPBELL, Naverby, Lincs, Baker Oct  
29 at 12 Off Rec, 31, Silver st, Lincoln  
LAWSON, HENRY, York, Drapers' Assistant Oct 23 at 1.15  
Off Rec, The Red House, Duncombe pl, York  
LEA, JOHN FRANCIS, Milears, Salop, Hotel Keeper Oct  
29 at 3 The Priory, Wrexham  
MERCHANT, HENRY, Gloucester, Coal Merchant Oct 29 at 12  
Off Rec, Station rd, Gloucester  
MERRY, FREDERICK, Leicester, Tool Maker Oct 29 at 12  
Off Rec, 1, Berridge st, Leicester  
OWEN, SAMUEL, King's Heath, Worcester, Civil Engineer  
Oct 29 at 11.30 191, Corporation st, Birmingham  
NEWMAN, WILLIAM JOSEPH, Headlam Cross, nr Redditch,  
Worcester, Baker Oct 29 at 11.30 191, Corporation st,  
Birmingham  
PEARSON, GEORGE HENRY, Nottingham, Timber Merchant  
Oct 29 at 12 County Court house, St Peter's gate,  
Nottingham  
PRICE, JOSEPH, Hay, Brecon, Grocer Oct 26 at 2.30 2,  
Off st, Hereford  
RISDOP, RICHARD, Millbay, Plymouth, Miller Oct 29 at 12  
7, Buckland terr, Plymouth  
ROSE, LAMAR, West Southbourne, Bournemouth, Carpenter  
Oct 29 at 3 Messrs Curtis & Son, 158, Old Christchurch  
rd, Bournemouth  
SCHMIDTKE, MATTHIAS NICOLAS, Devons rd, Bow, Baker's  
Manager Oct 29 at 12 Bankruptcy bldgs, Carey st  
TADDERER, JAMES COLEMAN, Desford, Leicester, Jankeeper  
Oct 29 at 12 Off Rec, 1, Berridge st, Leicester  
WATTS, WILLIAM, Billesley, Worcester, Baker Oct 29 at 12  
191, Corporation st, Birmingham  
WILLIAMS, JOHN, Bangor, Carnarvon, Monumental Mason  
Oct 29 at 12 Crye church, Enniscorthy, Chester

## ADJUDICATIONS.

BARBER, THOMAS VERNON HOLLINGSWORTH, Durcan tetr,  
Irlington, Fancy Hat Manufacturer High Court Pet  
Oct 14 Ord Oct 14  
BELLSTON, WILLIAM JOHN, Keynham, Somerset, Wheel-  
wright Bristol Pet Oct 3 Ord Oct 15



BISHOP, JOHN, Malvern, Worcester, Furniture Remover  
Worcester Pet Oct 14 Ord Oct 14  
BROADBRIDGE, WILLIAM HAROLD, Edgware rd, Fruiterer  
High Court Pet Oct 8 Ord Oct 14  
BUSH, THOMAS ODENSEY BOWEN, Gardick hill High Court  
Pet Oct 21 Ord Oct 14  
CHALONER, THOMAS, Hanwood, Salop, Builder Shrewsbury  
Pet Oct 16 Ord Oct 16  
CLARK, WILLIAM CECIL, Bedford Park, Chiswick, Civil  
Servant Brentford Pet Oct 4 Ord Oct 14  
COHN, RUDOLF, Duke st, St James', Stock Exchange Com-  
mission Agent High Court Pet Aug 15 Ord Oct 15  
COLINS, SAMUEL, Resolven, Collier Neath and Aberavon  
Pet Oct 15 Ord Oct 15  
COPE, JOSEPH DOWSETT, Lewisham, Meat Salesman Green-  
wich Pet Oct 12 Ord Oct 12  
COTTELL, WILLIAM ALEXANDER, Wallasey, Bread Dealer  
Liverpool Pet Oct 16 Ord Oct 16  
DAVID, WILLIAM, Crownwell manse, South Kensington,  
Quarry Master High Court Pet Sept 13 Ord Oct 15  
DAVIES, SARAH, and MARY JANE DAVIES, Colwyn Bay,  
Denbigh, Lodging House Keepers Bangor Pet Oct 15  
Ord Oct 15  
DAVIS, HERMAN FRANK, Brighton, Fancy Warehouseman  
Brighton Pet Oct 14 Ord Oct 15  
DYER, JOHN, Desborough, Northampton, Farmer North-  
ampton Pet Oct 16 Ord Oct 16  
EDWARDS, GEORGE, and WALTER THOMAS SHAGGS, Paradise  
st, Albert Embankment, Sand Merchants High Court  
Pet Aug 9 Ord Oct 14  
ENGLAND, HENRY, and ARTHUR JOHN ENGLAND, Padstow,  
Cornwall, General Painters Truro Pet Oct 14 Ord  
Oct 14  
GEORGE, WILLIAM JAMES, Cwm-dare, Aberdare, Glam,  
Grocer Pontypridd Pet Oct 16 Ord Oct 16  
HALL, ROBERT HEDLEY, Colne Engine, Essex, Farmer  
Colchester Pet Oct 16 Ord Oct 16  
HILL, GEORGE CHRISTOPHER, Glastonbury, Tailor Wells  
Pet Oct 14 Ord Oct 14  
HOLLAND, PETER JONATHAN, Burgess Hill, Sussex, Miller  
Brighton Pet Oct 3 Ord Oct 14  
HOPEWELL, WILLIAM HENRY, Louth, Upholsterer Gt  
Grimsby Pet Oct 14 Ord Oct 14  
HUMPHREYS, ALBERT EDWARD, Portmadoc, Chemist Port-  
madoc Pet Oct 14 Ord Oct 14  
JACOB, ALFRED, Chapel st, Lamb's Conduit st, Carlo Dealer  
High Court Pet Sept 9 Ord Oct 14  
JONES, ALVIN, Trawsfynydd, Merioneth, Stationer Port-  
madoc Pet Oct 14 Ord Oct 14  
LAWSON, HENRY, York, Draper's Assistant York Pet  
Oct 15 Ord Oct 15  
MERRY, FREDERICK, Leicester, Tool Maker Leicester Pet  
Oct 14 Ord Oct 14  
MITCHELL, THOMAS, East Grinstead, Builder Tunbridge  
Wells Pet Oct 14 Ord Oct 14  
PRIOR, JAMES, Charing, Kent, Picture Dealer Canterbury  
Pet Sept 19 Ord Oct 15  
RADCLIFFE, HENRY EDWARD, Darnall, Sheffield, Butcher  
Sheffield Pet Oct 16 Ord Oct 16  
ROBIN, FREDERICK WILLIAM, Devonport, Baker Plymouth  
Pet Oct 16 Ord Oct 16  
ROBINSON, JOHN HENRY, Bradford, Credit Draper Brad-  
ford Pet Oct 16 Ord Oct 16  
ROSE, LARA, West Southbourne, Bournemouth, Carpenter  
Fosco Pet Oct 15 Ord Oct 15  
SHARPE, WILLIAM THOMAS, Knowle Hill, Virginia Water,  
Surrey, Farmer Kingston, Surrey Pet Sept 19 Ord  
Oct 15  
SHEPHERD, JOHN, West Hartlepool, Auctioneer Sunderland  
Pet Oct 15 Ord Oct 15  
SHERWILL, JOHN, Fainton, Devon Plymouth Pet Oct 14  
Ord Oct 14  
SMITH, FREDERICK WILLIAM, Gt Yarmouth Gt Yarmouth  
Pet Oct 15 Ord Oct 15  
THOMPSON, HENRY FRANCIS, Kingston on Thames, Agent  
High Court Pet July 25 Ord Oct 12  
WHITE, ALFRED, Weymouth, House Decorator Dorchester  
Pet Oct 15 Ord Oct 15  
WIDLAKE, FREDERICK JOHN INGLETON, and ALFRED  
WIDLAKE, Fitzroy st, Wallpaper Merchants High  
Court Pet Sept 13 Ord Oct 15  
WILLIAMS, LEWIS, Swansea, Musician Swansea Pet Oct  
15 Ord Oct 15

#### ADJUDICATION ANNULLED.

FANHAWE, HENRY HORATIO, Greenhill park villas,  
Willesden, Solicitor High Court Adj Nov 22, 1903  
Annul Oct 15, 1907

#### RECEIVING ORDERS.

BOHINI, PETER, Sunderland, Confectioner Sunderland Pet  
Sept 24 Ord Oct 17  
BRIDGON, THOMAS, Monyash, Derby, Cattle Dealer Derby  
Pet Oct 19 Ord Oct 19  
CHAMBERS, CHARLES THOMAS, Chilham, Kent, Farmer  
Canterbury Pet Oct 15 Ord Oct 15  
COLEMAN, WILLIAM JORDAN, Low Eggborough, Yorks  
Wakefield Pet Oct 18 Ord Oct 18  
DAVIES, EVAN CHARLES, Pentrebach, Merthyr Tydfil  
Merthyr Tydfil Pet Oct 18 Ord Oct 18  
DAVIES, JOHN RICHARD, Llanelly, Carmarthen, Auctioneer  
Carmarthen Pet Oct 17 Ord Oct 17  
DESMOND, CHARLES HENRY, Ilkley, Yorks Bradford Pet  
Oct 7 Ord Oct 17  
EASTHEAD, ARTHUR FREDERICK, Rochester, Photographer  
Rochester Pet Oct 17 Ord Oct 17  
EGLIN, CHARLES, West Hartlepool, Coachbuilder Sunder-  
land Pet Oct 5 Ord Oct 18  
EAST, L., Whitehall House, Whitehall, Engineer High  
Court Pet Sept 19 Ord Oct 18  
FRANKLIN, I W, Richmond rd, Baywater, Land Agent  
High Court Pet Sept 10 Ord Oct 18  
GEORGE, E F, Strand, Florist High Court Pet Aug 29  
Ord Oct 18  
GOODMAN, HARRY GEORGE, Luton, Builder Luton Pet  
Oct 17 Ord Oct 17  
GREENGLADE, JOHN HENRY, Bournemouth, Engineer Poole  
Pet Oct 17 Ord Oct 17  
GRIFFITHS, THOMAS BRINLEY, Ammanford, Carmarthen,  
Draper Carmarthen Pet Oct 16 Ord Oct 16  
HUMPHREY, FREDERICK WILLIAM, Sidney George HUMPHREY,  
and CHARLES DEIGHTON HUMPHREY, Thornton Heath,  
Oil and Colourmen Croydon Pet Oct 18 Ord Oct 18  
JONES, JOSEPH OWEN, Rhyl, Flint, Joiner Bangor Pet  
Oct 19 Ord Oct 19  
KILGALL, RICHARD, Oldham, Boot Dealer Oldham Pet  
Oct 3 Ord Oct 18  
LAMBERT, HENRY SUMMERS, Sladen, Yorks Firelighter  
Manchester Bradford Pet Oct 18 Ord Oct 18  
LAWSON, WILLIAM, Newton le Willows, Lancs, Engineer  
Warrington Pet Oct 3 Ord Oct 17  
LLOYD, PHILIP JAMES, Clifton, Bristol, Tea Merchant  
Bristol Pet Oct 16 Ord Oct 17  
MURRAY, WILLIAM, Brighton, Fly Proprietor Brighton  
Pet Oct 19 Ord Oct 19  
PARKINSON, JOHN CHARLES, Liverpool, Solicitor Liverpool  
Pet Aug 7 Ord Oct 17  
PARRY, RICHARD EDWARD, Abbey Grange, Llantysilio,  
Denbigh, Farmer Wrexham Pet Oct 17 Ord Oct 17  
FRANCE, EDWIN, Redmister, Bristol, Engineer Bristol  
Pet Oct 17 Ord Oct 17  
PICKERDEN, THOMAS, Gt Grimsby, Saw Mill Proprietor  
Gt Grimsby Pet Oct 19 Ord Oct 19  
ROGERS, CHARLES, Leeds Leeds Pet Oct 17 Ord Oct 17  
SOLMONS, C, White Lion st, Bishopgate, Furrier High  
Court Pet Sept 20 Ord Oct 17  
SPERCKLY, EDWIN, Fleton, Hunts, Innkeeper Peter-  
borough Pet Oct 19 Ord Oct 19  
STARKEY, TOM RUBEN, New Cross rd, Hoxier Greenwich  
Pet Oct 16 Ord Oct 16  
VAN HOTTEN, W J, Gracechurch st, Art Dealer High  
Pet Aug 9 Ord Oct 17  
WEBSTER, HENRY, Sale, Chester, Newagent Man-  
chester Pet Oct 17 Ord Oct 17  
WHITAKER, JOHN DYSON, Scarborough, Hotel Keeper  
Scarborough Pet Oct 17 Ord Oct 17

#### FIRST MEETINGS.

ANDREWS, WALTER JOHN, Bedminster, Bristol, Baker Nov  
1 at 11.15 Off Rec, 28, Baldwin st, Bristol  
BOOTH, JOHN RICHARD, Carrington, Lines, Carpenter Oct 30  
at 2.15 Off Rec, 4 and 6, West st, Boston  
BRITAIN, CHARLES, Abertillery, Colliery Proprietor Oct 30  
at 12 Off Rec, 144, Commercial st, Newport, Mon  
CHALONER, THOMAS, Hanwood, Salop, Builder Nov 2 at  
11.30 Off Rec, 23, Swan hill, Shrewsbury  
CHAMBERS, CHARLES THOMAS, Chilham, Kent, Farmer  
Oct 30 at 11 Off Rec, 68a, Castle st, Canterbury  
CLARK, OLIVE ANNIE, Wraybury, Bucks, Builder Oct 31  
at 12 14, Bedford row  
CLARKE, CLARA, Bostall Hill, Whitstable, Kent, Licensed  
Victualler Oct 30 at 10 Off Rec, 68a, Castle st, Canter-  
bury

COLEMAN, WILLIAM JORDAN, Low Eggborough, Yorks  
Nov 1 at 11 Off Rec, 6, Bond ter, Wakefield  
COLINS, SAMUEL, Resolven, Glam, Collier Oct 31 at 11.45  
Off Rec, 81, Alexandra rd, Swansea  
COPE, JOSEPH DOWSETT, Sandrock rd, Lewisham, Meat  
Salesman Oct 30 at 12 137, York rd, Westminster  
Bridge  
COSTELLO, JOHN, Burnley, Butcher Oct 30 at 11 Off Rec,  
14, Chapel st, Preston  
COSTEN, HERBERT AMERSON, East Farleigh, Kent, Farmer  
Oct 30 at 11 9, King st, Maidstone  
COTTELL, WILLIAM ALEXANDER, Wallasey, Chester, Bread  
Dealer Oct 30 at 12 Off Rec, 35, Victoria st, Liver-  
pool  
DAVIES, JOHN RICHARD, Llanelly, Carmarthen, Auctioneer  
Nov 2 at 12 Off Rec, 4, Queen st, Carmarthen  
DAVIES, SARAH, and MARY JANE DAVIES, Colwyn Bay,  
Lodging House Keepers Oct 30 at 12 Crypt chambers,  
Rugby row, Chester  
DAVIS, HERMAN FRANK, Brighton, Fancy Warehouseman  
Oct 31 at 11.30 Off Rec, 4, Pavilion bldg, Brighton  
DESMOND, CHARLES HENRY, Ilkley, Yorks Nov 1 at 11  
Off Rec, 29, Manor row, Bradford  
DYSON, JOHN, Desborough, Northampton, Farmer Oct 30  
at 12 Off Rec, Bridge st, Northampton  
EASTHEAD, ARTHUR FREDERICK, Rochester, Photographer  
Nov 4 at 12.15 115, High st, Rochester  
ELLINGTON, JOSEPH, Coatham Mundeville, nr Darlington,  
Farmer Oct 30 at 3 Off Rec, 8, Albert rd, Middle-  
brough  
ENGLAND, WILLIAM HENRY, and ARTHUR JOHN ENGLAND,  
Padstow, Cornwall, General Painters Oct 31 at 12  
Off Rec, Boscawen st, Truro  
EAST, L., Whitehall House, Whitehall, Engineer Nov 1  
at 12 Bankruptcy bldg, Carey st  
FRANKLIN, I W, Richmond rd, Baywater, Land Agent  
Oct 31 at 11 Bankruptcy bldg, Carey st  
GIBSON, JOHN HENRY, Dover, Photographer Oct 30 at 10.30  
Off Rec, 68a, Castle st, Canterbury  
GEORGE, E F, Strand, Florist Nov 1 at 11 Bankruptcy  
bldg, Carey st  
GEORGE, WILLIAM JAMES, Cwm-dare, Aberdare, Glam, Grocer  
Oct 30 at 11 Off Rec, Post Office chambers, Pontypridd  
GRAVY, CHARLES, Waltham-on-Avon, nr Rotherham, Yorks,  
Saddler Oct 30 at 12.30 Off Rec, Fytchies ln, Sheffield  
GREENGLADE, JOHN HENRY, Bournemouth, Engineer Oct  
31 at 2.30 Curtis & Son, 128, Old Christchurch rd,  
Bournemouth  
GRIFFITHS, THOMAS BRINLEY, Ammanford, Carmarthen,  
Draper Nov 2 at 11.30 Off Rec, 4, Queen st, Carmarthen  
HEADLAND & SON, F. Billingshurst, Sussex, Woollen  
Merchants Oct 31 at 12 Off Rec, 4, Pavilion bldg,  
Brighton  
HILL, GEORGE CHRISTOPHER, Glastonbury, Somerset, Tailor  
Nov 1 at 11 Off Rec, 28, Baldwin st, Bristol  
HOPEWELL, WILLIAM HENRY, Louth, Upholsterer Oct 30  
at 11 Off Rec, 86 Mary's chambers, Gt Grimsby  
JAMES, JAMES HENRY HARRIS, Newquay, Cornwall, Mining  
Engineer Oct 31 at 1 Off Rec, Boscawen st, Truro  
JONES, ALVIN, Trawsfynydd, Glam, Grocer Oct 30 at 11  
Off Rec, 144, Commercial st, Newport, Mon  
KIRK, CHARLES, Higher Broughton, Salford, Lancs,  
Butcher Oct 30 at 2.30 Off Rec, Byron st, Manchester  
LAMBERT, HENRY SUMMERS, Sladen, Yorks, Firelighter  
Manufacturer Nov 4 at 11 Off Rec, 29, Manor row, Brad-  
ford  
LEE, ALBERT ARTHUR JAMES, Lower Clapton rd, Manufac-  
turer Oct 30 at 12 Bankruptcy bldg, Carey st  
LLOYD, PHILIP JAMES, Clifton, Bristol, Tea Merchant Nov  
1 at 12.30 Off Rec, 26, Baldwin st, Bristol  
LOMAS, JOSEPH, Dove Holes, Derby, Farmer Oct 31 at 2.45  
Off Rec, Castle chambers, 6, Vernon st, Stockport  
LOWENBROUGH, ROSARIO ROBERT REVELL, Croft on Tees,  
Durham, Builder Oct 30 at 3 Off Rec, 8, Albert rd,  
Middlebrough  
LUBBOCK, WOOD, Grey Eagle st, Spitalfields, Timber  
Merchant Oct 30 at 11 Bankruptcy bldg, Carey st  
MADDOX, JOHN, Ferndale, Westbury upon Trym Nov 1 at  
11.30 Off Rec, 26, Baldwin st, Bristol  
MOORE, WILLIAM JOHN, Cowbridge, Grocer Oct 30 at 9  
Off Rec, 117, St Mary st, Cardiff  
RICHARDSON, FREDERICK WILLIAM BUTTON, Hastings,  
Stationer Nov 4 at 11 County Court Office, 34,  
Cambridge rd, Hastings  
ROBINSON, JOHN HENRY, Bradford, Credit Draper Oct 30  
at 11 Off Rec, 29, Manor row, Bradford

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SHEWELL, JOHN, Falgout, Devon Oct 31 at 11 7, Buckland St., Plymouth  
SMITH, FREDERICK WILLIAM, 64 Yarmouth Nov 2 at 12 Off Rec, 8, King St, Norwich  
SOLOMONS, C, White Lion st, Bishopsgate, Furrer Oct 31 at 12 Bankruptcy bldgs, Carey St  
STARKER, TOM RUBE, New Cross rd, Hoxier Oct 30 at 11.30 132, York rd, Westminster Bridge  
STEELE, HORACE, Rotherham, Yorks, Plumber Oct 30 at 11.30 Off Rec, Figgies ln, Sheffield  
TANCOOTT, WILLIAM, Stroud, Glos, Motor Dealer Nov 1 at 12 Off Rec, 26, Baldwin st, Bristol  
VAN HOUTTE, W J, Gracechurch st, Art Dealer Oct 30 at 11 Bankruptcy bldgs, Carey St  
WHITAKER, JOHN DYON, Fearnborough, Hotel Keeper Nov 4 at 4 The Salisbury Hotel, Huntriss row, Scarborough  
WHITT, ALFRED, Weymouth, House Decorator Oct 31 at 1 Off Rec, City chambers, Catherine st, Salisbury  
WILLIAMS, ALBERT, Woodhouse, nr Sheffield, Upholsterer Oct 30 at 12 Off Rec, Figgies ln, Sheffield  
WILLIAMS, LEWIS, Swansea, musician Oct 31 at 12.15 Off Rec, 31, Alexandra rd, Swansea

## ADJUDICATIONS.

ACLAND, HENRY VIVIAN, Colchester High Court Pet July 3 Ord Oct 15  
ALLIN, HENRY PHILIP, Cannon st, Mercantile Agent High Court Pet Sept 25 Ord Oct 19  
BIDDON, THOMAS, Monyash, Derby, Cattle Dealer Derby Pet Oct 19 Ord Oct 19  
BROOK, ARTHUR, North Lophams, East Harling, Norfolk, Hay Dealer Ipswich Pet Sept 17 Ord Oct 19  
CLARK, OLIVER ARNIE, Wraybury, Bucks, Builder Windsor Pet Sept 2 Ord Oct 5  
CLEMENS, THOMAS JOHN, Croydon, Tailor Croydon Pet Oct 16 Ord Oct 18  
COLEMAN, WILLIAM JORDAN, Low Egborough, Yorks Wakefield Pet Oct 18 Ord Oct 18  
COSTER, ERNEST ARTHUR, East Farleigh, Kent, Farmer Maidstone Pet Oct 4 Ord Oct 17  
DAVIES, JOHN RICHARD, Llanelly, Carmarthen, Auctioneer Carmarthen Pet Oct 17 Ord Oct 17  
EASTMAN, ARTHUR FREDERICK, Rochester, Photographer Rochester Pet Oct 17 Ord Oct 17  
FLINER, CHARLES CLIFFORD, Maidstone, Cycle Dealer's Manager Maidstone Pet Sept 14 Ord Oct 17  
GOLD, ISAAC HYMAN, Westow hill, Upper Norwood, Tailor High Court Pet Sept 18 Ord Oct 17  
GOODMAN, HARRY GEORGE, Luton, Builder Luton Pet Oct 17 Ord Oct 17  
GREENLEAF, JOHN ERNEST, Bourne, Engineer Pools Pet Oct 17 Ord Oct 17  
GRIFITHS, THOMAS BRIDLEY, Ammanford, Carmarthen, Draper Carmarthen Pet Oct 16 Ord Oct 16  
HARLIP, FREDERICK, King's parade, Acton Hill, Ironmonger Brentford Pet Sept 25 Ord Oct 16  
HEADLAND, FREDERICK, Billingham, Essex, Woollen Merchant Brighton Pet Sept 14 Ord Oct 17  
HUMPHREY, FREDERICK WILLIAM, SIDNEY GEORGE HUMPHREY, and CHARLES DAUGHTON HUMPHREY, Thornton Heath, Oil and Coloursmen Croydon Pet Oct 18 Ord Oct 18  
JONES, JOSEPH OWEN, Rhyl, Contractor Bangor Pet Oct 19 Ord Oct 19  
KIRK, CHARLES, Higher Broughton, Salford, Butcher Salford Pet Oct 7 Ord Oct 18  
LANBERT, HENRY SCHERSCALES, Bladen, Yorks, Firelighter Manufacture Bradford Pet Oct 18 Ord Oct 18  
LEE, ALBERT ARTHUR JAMES, Lower Clapton rd, Manufacturer High Court Pet Sept 23 Ord Oct 19  
LUBBOCK, WOOLF, Grey Eagle st, Spitalfields, Timber Merchant High Court Pet Sept 20 Ord Oct 19  
MEAKIN, FREDERICK GEORGE, Shavington cum Greely, nr Crewe, Farmer Crewe Pet July 26 Ord Oct 16  
MERRINS, MAURICE, Salford, Lancs, Electrical Engineer Salford Pet July 4 Ord Oct 18  
PARRY, RICHARD EDWARD, Abbey Grange, Llanyalio, Denbigh, Farmer Wrexham Pet Oct 17 Ord Oct 17  
PEARCE, EDWIN, Redmister, Bristol, Engineer Bristol Pet Oct 17 Ord Oct 17  
PEARSON, GEORGE HENRY, Nottingham, Timber Merchant Nottingham Pet Oct 1 Ord Oct 17  
PICKERNEY, THOMAS, 64 Grimsby, Saw Mill Proprietor Gt Grimsby Pet Oct 19 Ord Oct 19  
RICHARDSON, FREDERICK WILLIAM BUTTON, Hastings, Stationer Hastings Pet Sept 27 Ord Oct 17  
ROOBS, CHARLES, Leeds Leeds Pet Oct 17 Ord Oct 17  
SOULY, CHARLES ERNEST, Muswell Hill, Physician High Court Pet July 1 Ord Oct 10  
SPACKLEY, EDWIN, Fletton, Hunts, Innkeeper Peterborough Pet Oct 19 Ord Oct 19  
TODD, ALICE, Birmingham, General Fancy Dealer Birmingham Pet July 19 Ord Oct 19  
WESTBROOK, HENRY, Sale, Chester, Stationer Manchester Pet Oct 17 Ord Oct 17  
WHITAKER, JOHN DYON, Scarborough, Hotel Keeper Scarborough Pet Oct 17 Ord Oct 18

Amended notice substituted for that published in the London Gazette of Oct 18:

ENGLAND, WILLIAM HENRY, and ARTHUR JOHN ENGLAND, Padstow, Cornwall, General Painters Truro Pet Oct 14 Ord Oct 14

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## GENERAL INDEX.

For Classified Articles, see Appointments; Companies; Correspondence; Current Topics; Law Societies;  
Leading Articles; New Orders; Obituary; Reviews; Statutes, New.

### APPOINTMENTS.

Allen, Raymond, appointed Revising Barrister, 692  
Aspinall, K.C., elected Bencher of Inner Temple, 236  
Asquith, Raymond, appointed Junior Counsel to Treasury in  
Peage Cases, 730  
Atherley-Jones, K.C., elected Bencher of Inner Temple, 453  
Atkin, K.C., elected Bencher of Gray's-inn, 53  
Bankes, K.C., elected on Council of Law Reporting, 431  
Bell, W. L. L., appointed a Revising Barrister, 637  
Bigham, Mr. Justice, elected Treasurer of Inner Temple, 84  
Blyth, E. K., elected President of Law Society, 691  
Chitty, C. W., appointed Judge of High Court, Calcutta, 147  
Clay, W. H., elected Bencher of Inner Temple, 555  
Coleridge, Lord. K.C., appointed Commissioner of Assize, 469;  
Judge of the High Court, 792  
Cozens-Hardy, M.R., appointed Chairman of Commission on  
Historical M.S., 453  
Cutler, J., K.C., elected on Senate of London University, 194  
Davidson, N. G., appointed Civil Judge of Sudan, 295  
Davies, C. R., appointed Attorney-General of British  
Honduras, 236  
Deane, E. E., appointed Inspector of Official Receivers, 309  
Dugdale, K.C., elected Master of Library of Inner Temple, 117  
Duke, K.C., appointed on Council of Law Reporting, 53  
Freeman, K.C., elected Bencher of Inner Temple, 453  
Fry, Sir E., appointed Plenipotentiary at Hague Conference, 453  
Gregory, P. S., elected Bencher of Lincoln's-inn, 469  
Harris, K.C., elected Treasurer of Gray's-inn, 84  
Jones, Chester, appointed Metropolitan Police Magistrate, 577  
Jones, W. H. H., received honour of Knighthood, 53  
Knocker, R. E., appointed Town Clerk of Dover, 784  
Knox, K.C., elected Bencher of Gray's-inn, 53  
Laing, K.C., elected Bencher of Inner Temple, 555  
Lawrence, G., appointed Junior Counsel to Treasury, 14  
Low, K.C., appointed Recorder of Ipswich, 84  
Lowenthal, C. F., appointed Junior Counsel to Commissioners of  
Works, 730  
Macklin, A. R., appointed Revising Barrister on South-Eastern  
Circuit, 593  
Macnaghten, Lord, elected Treasurer of Lincoln's-inn, 32  
Matthews, J. B., appointed Attorney-General of Bahama  
Islands, 236  
Mattinson, K.C., elected Master of Library of Gray's-inn, 194  
Maxwell, F. M., appointed Chief Justice of British Honduras,  
236  
Menendez, M. R., received honour of Knighthood, 53  
Morris, T. E., appointed Prosecuting Counsel to Post Office at  
Chester, 309  
Pollock, Sir F., elected Bencher of Lincoln's-inn, 14  
Prescott, R. M., appointed Town Clerk of Sheffield, 784  
Rawlinson, K.C., elected Bencher of Inner Temple, 453  
Roskill, K.C., appointed Recorder of Burnley, 469  
Russell, C. H., elected Treasurer of Lincoln's-inn, 826  
Safford, F., appointed Prosecuting Counsel for Post Office on  
South-Eastern Circuit, 517  
Sale, S. G., appointed Legal Adviser to Secretary of State for  
India, 792  
Sands, W. H., appointed Prosecuting Counsel to Mint at Central  
Criminal Court, 413  
Shoe, K.C., appointed Recorder of Liverpool, 376; Commissioner  
of Assize, 486  
Shortt, E., appointed Recorder of Sunderland, 637  
Tanner, E., appointed Solicitor to the London County Council, 826  
Tarring, C. J., received honour of Knighthood, 53  
Trevor, A. H., appointed a Commissioner in Lunacy, 826  
Wallis, J. E. P., appointed Puisne Judge at Madras, 431  
Webb, A. C. B., appointed Chancellor of Salisbury Diocese, 376  
Wharton, C. H. M., appointed a Revising Barrister, 637  
Wilberforce, E. J., appointed Secretary to the Commissioners in  
Lunacy, 826

### Appointments (continued).

Williams, W. L., appointed Prosecuting Counsel to Post Office  
on South Wales Circuit, 309  
Younger, K.C., elected Bencher of Lincoln's-inn, 413  
Bar, Annual Meeting of, 412  
Bar, General Council of, 359, 360, 555, 689  
Barristers' Benevolent Association, 469  
Birrell, Mr., on Land Law Reform, 452  
Calls to the Bar, 70, 236, 431, 577  
**CASES DISCUSSED**—See Separate Index  
**CASES REPORTED**—See Separate Index  
Companies, Meetings of, 212, 308, 328, 361, 389, 452  
**CORRESPONDENCE.**

Admission of Solicitors, 276  
Bankruptcy Acts, 497, 513  
Burial at Sea, 340  
Commission on Life Insurance Policy, 746  
Commissions, Sharing, 385  
Companies in France, English and Foreign, 276, 549  
Compensation to Assistant Masters, 737  
Completion as affected by Registration of Title, 320  
Death Duties, Collection of, 289, 321  
Deceased Wife's Sister Act, 783  
Domestic Servants and Compensation, 651  
Equitable Mortgagees, 604  
Equity and Good Conscience, 306  
Father of the Profession, 321, 372, 409, 425  
Foreign Tags, 355  
Forged Transfers, 341  
Harkness and Alsopp, Re, 758  
Interest on Clients' Money, 765  
Land Registry, 168, 465  
Law Libraries, 227  
Law Society Council, 465  
Law Society Council Election, 623  
Law Society Meeting, Resolutions to be Submitted to, 587  
Law Society, Proposed Committee, 157  
Law Society, Secret Meeting, 128  
Law Society's Postal Polls, 355  
London County Council, Lawyers on, 321  
Married Women's Property Act, 1907; 782  
Partnership Articles, 64  
Pilot, Action in personam against, 549  
Privy Councillors, Solicitors made, 623  
Probate Division, 782  
Registrar of Land Registry, 10  
Seisin and Possession, 288, 513  
Solicitors in the Eighteenth Century, 774  
Solicitors' Practice Committee, Resolutions of, 651, 671  
Solicitors, Proposed Rules relating to, 604  
Speculating Solicitors, 169, 188  
Surety to Promissory Note, 652  
Traders and their Clients, 480  
Workmen's Compensation Act, 529

### CURRENT TOPICS.

Abandonment of Infant Children, 710  
Accident by Fowls Straying on Highway, 492  
Accident to Visitor on Ship, 601  
Actions in rem, 583  
Acts of Parliament, Misprints in, 818  
Actuarial Value of Decisions, 202  
Ademption of Legacies, 3  
Adulteration, Notices excepting Liability, 22  
Advertisements of American Lawyers, 546  
Advertisements Regulation Bill, 584  
Aeroplane, The, 92  
Aliens Act, 1905; 477  
Aliens, Deportation of, 620  
American Criminal Law, 61

*Current Topics (continued).*

American Judge Censured by the Bar, 163  
 American Lawyer's Experience of English Courts, 710  
 American Newspapers and Libel, 369  
 American Railways, 818  
 Annuities, Bequests of, 92, 711  
 Anticipating a Change in the Law, 807  
 Appeals from Stipendiary Magistrates, 462  
 Arbitration, International Court of, 697  
 Architect's Certificate, Conclusiveness of, 584  
 Arguing from Authorities, 164  
 Arrears in Appeal Court, 805  
 Attendance of Creditors in Chambers, 647  
 Australia and the Privy Council, 544  
 Australia as Described by Lord Stowell, 735  
 Australian Arbitration Act, 271  
 Australian Socialistic Legislation, 166  
 Australian States' Constitutions, 302, 684  
 Bail for Prisoner who has Not Served his Sentence, 242  
 Baker, Sir Benjamin, 508  
 Bankrupt Solicitors, 491  
 Bankruptcy and Agreed Accounts for Costs, 353  
 Bankruptcy Law Amendment Committee, 19  
 Bankruptcy Laws of England and Scotland, 544  
 Bankruptcy Report for 1906; 742  
 Bar, The, a Century Ago, 683  
 "Barring" Clause in Music Hall Contracts, 507, 582  
 Barristers and Book-keeping, 462  
 Barristers as Expert Witnesses, 286  
 Barristers Imprisoned in a Robing Room, 109  
 Barristers with Political Engagements, 771  
 Bees as a Nuisance, 125  
 Benchers, Selection of, 476  
 Betting Act, 1906; 153  
 Betting Acts in Australia, 581  
 Betting, Two Cases on, 667  
 Birthday Honours, 40  
 Brampton, Lord, 788  
 Brampton, Lord, and Ventilation, 807  
 Breach of Trust, 420  
 Breaking Windows, Penal Servitude for, 42  
 British India, The Law of, 820  
 Building Court, A, 382  
 "Building of an Unseemly Description," 618  
 Building Plant, Execution on, 776  
 Burial at Sea, 335, 523  
 Burrows, Mr. Arthur, 733  
 Calling within the Bar, 21  
 Capital Punishment, Abolition of, 337  
 Carriage of Animals, Reasonableness of Condition, 203  
 Carriers Act, 1830; 140  
 Caruso, Conviction of, 76  
 Cases "Unfortunately not Reported," 41  
 "Cash Checks" for Passengers, 462  
 Cause Lists: Hilary, 163; Easter, 379; Trinity, 505; Michaelmas, 787  
 Central Criminal Court, 285  
 Chairman of London County Sessions, 201  
 Charitable Trusts Acts, Exemption from, 666, 726  
 Check-weigher, The, 40  
 Cheque, Countermand of Payment, 564  
 Cheques, Stopping by Telegram, 285, 564  
 Child en Ventre sa Mère, 601  
 Christmas Boxes and the Prevention of Corruption Act, 818  
 Circuit Mess, Extravagance at, 186  
 Circuit Work, 545  
 Clubs, Entry of Police into, 284  
 Coleridge, Mr. Justice, 787, 807  
 Colonial Appeals and House of Lords, 440  
 Colonial Conference, 283  
 Colonial Law, Proof of, 202, 422  
 Colonial Legislation, Overriding, 819  
 Colonial Stock Act, 1900; 91, 163, 367  
 Coloured Races and the Empire, 753  
 Commission of House Agents, 441  
 Companies Acting as Trustees and Executors, 41  
 Companies Acts Consolidation of, 681  
 Companies Bill, The, 380, 460, 734  
 Company, Implied Powers of, 761  
 Company Law, Mr. Harold Brown on, 301  
 Company Law of the Empire, 646  
 Company Trustees, 184  
 Compensation for Injury, Measure of, 755  
 Compensation for Licences and Debenture-holders, 806  
 Compensation for Personal Injuries, 109

*Current Topics (continued).*

Comptroller-General, Annual Report of, 583  
 Compulsory Arbitration in New Zealand, 406  
 Compulsory Voting, 202  
 Confessions, Imperfect, 506  
 Confirmation of Sales by Private Acts, 185  
 Constructive Trusts, 92  
 Contempt of Court, 221  
 Contingent Claims against Estates, 184  
 Contracts for More than a Year, 806  
 Copies of Documents for Court of Appeal, 39  
 Copyright in New Editions, 441  
 Coroners, Amendment of Law of, 406  
 Corporations, The Law of, 763  
 Costs, Agreements as to, 459  
 Costs, Appendix N, 77  
 Costs, Depriving a Successful Defendant of, 646  
 Costs of Administration of Real Estate, 735  
 Costs of Shorthand Notes, 20  
 Costs of Three Counsel, 369  
 Counsel, Speeches of, 788  
 Counsel to the Speaker, The, 818  
 County Court Judge, Mode of Addressing, 141  
 County Court Judge, New, 733  
 County Court Rules, New, 709  
 County Courts Bill, 300  
 Court of Appeal, 318, 476, 563, 681  
 Court of Appeal, Mr. Justice Grantham on, 380  
 Court of Appeal Bill, 300, 352  
 Court-martial, Right to, 2  
 "Courts at Westminster," The, 337  
 Credulity, The Prevalence of, 698  
 Crime in Paris 370  
 Criminal Appeal Act, Judicial Comments on, 805  
 Criminal Appeal Bill, 354, 524, 682, 697, 709, 725  
 Criminal Procedure in United States, 404  
 Criminal Proceedings against Corporations, 382  
 Criminal Prosecutions, Allowances in, 22  
 Criminal Statistics for 1905; 260  
 Cross-examination, The Value of, 259  
 Curates and Compensation, 316  
 Custom to Grind Corn at Particular Mill, 22  
 Damages, Assessment of, 75  
 Damages by Riot, 241  
 Damages for Loss of Pedigree of Racehorse, 317  
 Damages for Wrongful Dismissal, 462  
 Davey, Lord, Lord Macnaghten on, 770  
 Dead Body, Claim to, 619  
 Death Duties, Collection of, 284  
 Death Without Issue, Evidence of, 647, 779  
 Debenture-holders and Winding-up Orders, 381  
 Debentures, Re-issue of, 698  
 Debts of Foreign States, Collection by Force, 682  
 Debts Payable on Sundays? Are, 545  
 Deceased Wife's Sister Act, 734, 771  
 Declarations as to State of Health, 584  
 Deeds Inadvertently Executed, 493  
 Defamatory Letters Dictated to Clerk, 222  
 Delay in Courts of Appeal, 681  
 Deposit in Case of Railway Bills, 272, 283  
 Directors and Proxies, 60  
 Directors' Fees, 492  
 Dirty Blotting-pads, 203  
 Disagreement of Juries, 39  
 Disorderly Conduct at Public Meetings, 185  
 Dispatch of Business in High Court, 618  
 Distress by Looking Through Window, 368  
 Distress for Rent in the Temple, 584  
 Distress in Flats, 506  
 Distress on Goods of Sub-lessee, 788  
 District Messenger Company, Liability of, 125  
 Divorce in Country where Wife is Resident, but not Domicile, 285  
 Doctors and Lawyers, Work of, Contrasted, 546  
 Domicil in Divorce Proceedings, 698  
 Duchess of Kingston's Case, 754  
 Duelling, Law and Practice of, 526  
 Duels of Lawyers, 683  
 Dying Declarations, 61  
 Easter Cause Lists, 379  
 Edalji Case, 491  
 Education, a Judge on, 40  
 Egypt, British Rule in, 406  
 "Either," Meaning of, 743  
 Eloquence, Helps to, 422



*Current Topics (continued).*

Equity and Good Conscience, 284  
 Escheat to Crown, 335  
 Estate Duty, Alterations in, by new Act, 769  
 Estate Duty, Avoidance of, 711  
 Estate Duty, Certificates of Discharge, 769  
 Estate Duty on Appointed Funds, 352  
 Estoppel by Conduct, 789  
 Evasion of Law in United States, 184  
 Evidence, Relaxation of Law of, 4  
 Executor, Devastavit by, 742  
 Executors and Workmen's Compensation Act, 648  
 Expense of Fire Protection under London Building Act, 222  
 Expulsion of Undesirable Aliens, 164  
 Extradition of British Subjects, 564  
 Extra-judicial Duties of Judges, 22  
 Factors Acts and Larceny, 369  
 Factors Acts, Title under, 165  
 Fall of Trees, 807  
 Father of the Profession, 222, 286, 318, 370  
 Federal Union of South African Colonies, 762  
 Federation or Unification, 779  
 Federation, The Drawbacks of, 2  
 Final and Interlocutory Orders, 3  
 Final Examination Honours, 422  
 Finance Act, 1907; 769  
 Fire Policies and Earthquake, 440  
 First Offenders, 779  
 Fishing Rights in Quebec, 711  
 Flooding of Rivers, 807  
 Foreign Law, Proof of, 272  
 Foreign Lotteries, 77  
 Foreign Tags, 352  
 Fraudulent Claims on Deceased Persons' Estates, 684  
 French Academy, Election of M. Barboux to, 506  
 French Action for False Imprisonment, 124  
 French Law of Marriage, 477  
 French Legal Officials, Liability for Mistakes, 566  
 French Physicians and their Fees, 317  
 French Tramways, Rights of Passengers, 618  
 French Will, Construction of, 442  
 Fry, Sir Edward, 725  
 "Futures," Operations in, 302  
 Garnishee Order *Nisi*, Payment under, 461  
 Good Health? What is, 316  
 Grave, Interference with, 507  
 Greek and Latin Quotations in the Courts, 125  
 Guardians' Liability to Paupers Employed by them, 273  
 Guardians of Poor, Should they be Abolished? 507  
 "Habitual Drunkard," 240  
 Hague Conference, 725, 733  
 Halebury, Lord, 741  
 Handwriting, Proof of, 338  
 Hidden Treasure, Right to, 338  
 "Hiring" Land, 508  
 Honours for Solicitors, 602  
 Horseplay and Practical Jokes, 790  
 House of Lords as a Court of Appeal, 108  
 Identity of Persons Lost at Sea, 285  
 Idling in Streets, 93  
 Illegal Distress on Lodgers' Goods, 124  
 Illness in Hotels, 368  
 Immunity of Financial Frauds, 260  
 Imperial and Colonial Law, 753  
 Implied Malice, 62  
 Imprisonment for Debt, 545, 819  
 Imprisonment for Non-payment of Poor Rates, 260  
 Improvement Expenses, Charge on Settled Property, 223  
 Incest, 683  
 Income of Unconverted Property, 20, 76  
 Income Tax Assessment, 124  
 Income Tax on Easter Offerings, 646  
 Income Tax on Three Years' Profits, 420  
 Indecent Books and Prints, 668  
 Injury to Plants from Creosote, 204  
 Inquisitions in Lunacy, 367  
 Insanity a Defence to Slander, 461  
 Insanity of Prisoner at Trial, 421  
 Interest, Claim for, Defeated by Laches, 337  
 International Arbitration, 788  
 International Law Association, 771  
 International Prize Court, 754, 777  
 Intestates' Estates Act, 1890; 762  
 Irish Council Bill, 275  
 Judges and Law Reporters, 125

*Current Topics (continued).*

Judges, Increase of, 524  
 Judgment for £827,000; 544  
 Judicial Arrangements, Committee on, 543  
 Judicial Committee: see Privy Council  
 Judicial Statistics, 544  
 Juries, Exclusion of Butchers from, 566  
 Jurors, Payment of, 476  
 Kennedy, Lord Justice, 300  
 King's Bench Division, 506  
 Land Registry, Schemes of, 315  
 Land Tenure Bill, 2  
 Land Transfer, Mr. Birrell on, 441  
 Land Transfer Rules, New, 563, 741  
 Landlord's Liability for Earwigs, 110  
 Landlord's Liability for Robberies in Flats, 77  
 Law Officers' Expenses, 224  
 Law Society Committee, 543  
 Law Society Council, 403, 419, 566, 599  
 Law Society Meeting, 439, 616  
 Law Society Meeting, Motions at, 563  
 Law Society Poll, 163, 183, 221, 351, 665, 681  
 Law Society, Secret Meeting of, 123, 139, 151  
 Lawyers, Heartlessness of, 406  
 Lease, Declaration of Right to Assign, 734  
 Leeman's Act and Stock Exchange, 666  
 Legacies, Abatement of, 477  
 Legal Illiteracy, 807  
 Legislation of the Year, 733  
 Lessee's Liability for Accidental Fire, 41  
 Libel, Proof of Damage, 241  
 Licences Compensation Charge, 420  
 Licensing Acts, Difficulty in the Administration of, 93  
 Licensing of Places of Public Entertainment, 819  
 Light, Right to, 1  
 Linked Chancery Judges, 524  
 List of Causes in High Court, 2  
 Lodger's Liability for Accident to Landlady, 526  
 "Long Pull," The, 337  
 Long Vacation, The, 183, 315  
 Lord Chancellor and County Justices, 152  
 Lord Chancellor's Committee on the Courts, 617  
 Lord Davey, 271  
 Lord of Appeal, New, 299  
*Loring v. Thomas*, The Rule in, 493  
 Loss of Negotiable Instruments, 124  
 Lottery at Church Bazaar, 186  
 Lottery, Keeping a, 20  
 Lotteries Act and Bonds Redeemed by Drawings, 152  
 Luggage, Personal, 525  
 Lunacy, Expense of Inquiry in, 108  
 Lynch Law in United States, 462  
 Marine Insurance Act, 154  
 Market, Disturbance of, 351  
 Marriage and Domicil, 109  
 Marriage of Foreigners in Italy, 76  
 Marriage with Step-daughter, 515  
 Married Women's Property Act, 1907; 753, 754, 777  
 Master and Servant, Anomalies in Law of, 317  
 Master of the Rolls, New, 300  
 Measurement of Distance in "Barring Clause," 582  
 Medical Expert Evidence, 370  
 Medical Referees under Workmen's Compensation Act, 381  
 Mercantile Cases in the Irish Courts, 286  
 Metropolitan Building Acts, Appeal under, 75  
 Middlesex Registry, 475  
 Middleton, The late Mr., 166  
 Military Manoeuvres and Law of Trespass, 109  
 "Mines" and "Minerals," Distinction between, 336  
 Mines and Redemption of Land Tax, 762  
 Misrepresentation as to Instrument, 493  
 Misrepresentation, Careless, 544  
 Mistaken Identity, 271  
 Monastic Societies in Great Britain, 545  
 Month, Lunar or Calendar, 20  
 Mortgages of Machinery, 508  
 Mortgages of Ships and Insurance Policies, 272  
 Motor Cyclists and Their Liabilities, 185  
 Motorists and Hedges, 440  
 Motorists, Warning, of Police Traps, 21  
 Murder by Mistake, 368  
 "Murder," Disuse of Word, 546  
 "My Lord," 302  
 National Flag used for Advertisement, 336  
 National Law in the United States, 789

*Current Topics (continued).*

New Equity Counsel to Treasury, 1  
 New Hebrides Convention, 273  
 Newspaper Reports of Decided Cases, 300  
 New Zealand as Described by Lord Stowell, 735  
 New Zealand's New Name, 761  
 "No Footpath," 203  
 Nuisance Caused by Early Workmen, 734  
 Nuisance from Smoke, 601  
 Obsolete Books, 2  
 Obtaining Credit by False Pretences, 240  
 Official Referees, Length of Cases before, 107  
 "Old Bailey," The New, 351  
 Olives, Fruit or Vegetable? 682  
 Options to Purchase in Leases, 3  
 Order for Payment Conditional on Receipt, 222  
 Oriental Solicitor, An, 508  
 Palatine Court, Service Outside Lancashire, 259  
 Papers for the Court, 459, 645  
 Paris Law Courts, 94  
 Parricide, Punishment of, in France, 711  
 Passenger Going Beyond His Station by Mistake, 261  
 Passengers' Luggage, 261  
 Patent Actions, Certificate as to Particulars of Objections, 240  
 Patent Medicines, 2  
 Patent Proceedings, Threats of, 817  
 Patents and Designs Bill, 335, 419, 439, 463, 493, 505  
 Paternity Disputed, Parental Likeness, 285  
 Pauper Litigants, 461  
 Pawning Goods Obtained on Credit, 336  
 Payment of Interest by Devises, 141  
 Payment of Rent by Bill, 60  
 Payment Out of Court, 41  
 Peace Conference, The End of the, 817  
 Pensions to Lawyers' Widows, 620  
 Personating a Barrister, 164  
 Petitions for Commutation of Death Sentence, 381  
 Pickford, Mr Justice, 300  
 Picture, Sale and Delivery of, 667  
 Pilots, Actions Against, 565  
 Plural Voting Bill, 108  
 Police as Public Prosecutors, 223  
 Police, The London, 698  
 Policy, Avoidance for Fraud, 565  
 Power, Exercise by Surviving Trustee, 492  
 Power to Postpone Conversion, 20  
 Prerogative of Crown in Bankruptcy, 261  
 Prevention of Corruption Act, 1906; 380  
 Prevention of Corruption Act, 1906, and Solicitors, 153  
 Priority by Getting in Legal Estate, 420  
 Private Bills of 1907; 379  
 Private Street Works, 582  
 Privy Council and Colonial Statutes, 618, 666, 684  
 Prize Court, The New, 754, 777  
 Procedure, Amendment of Legal, 847  
 Professional Sureties in New York, 743  
 Protector's Consent to Dismantling Assurance, 778  
 Public Pounds, 94  
 Public Trustee, 599  
 Public Trustee Act, 140  
 Public Trustee Rules, 725  
 Publicans as Special Jurymen, 620  
 Punishment, Inequalities in, 368  
 Punishment of Criminals, 262  
 Purchaser of Motor Liable for Vendor's Chauffeur, 260  
 Purchaser's Moral Duty to Ignorant Seller, 274  
 Quack Doctors and the Law, 525  
 Railway and Canal Traffic Act, 1854, s. 7; 460  
 Railway Companies and Restrictive Covenants, 788  
 Railway Companies and Votes, 370  
 Railway Companies as Coal Merchants, 223  
 Railways (Contracts) Bill, 77  
 "Receiving" Stolen Goods, 477  
 Rectification of Lease on Ground of Mistake, 710  
 Refusal of Judge to Enter Judgment, 442  
 Registrar of Births, Right to Object to Name of Child, 61  
 Registration Cases, 201  
 Registration of Newspapers under Companies Acts, 153  
 Removal of House Refuse, 405  
 Remuneration for Services, How Ascertained, 546  
 Remuneration for Services Rendered to Testator, 141  
 Remuneration of Deputies of County Court Judges, 819  
 Renewal of Licence Refused by Scotch Court, 165  
 Reporters and Shorthand, 742  
 Reports, Verbatim and Condensed, 61

*Current Topics (continued).*

Representation of Incidents of Cause of Action, 318  
 Reputed Ownership Clause, 240, 699  
 Resignation of Office, 806  
 Restitution of Proceeds of Goods Obtained by False Pretences, 241  
 Revision of Sentences on Criminals, 647  
 Revolvers, Sale of, 224, 302  
 Rich and Poor, Ought Former to Pay More than Latter? 762  
 Riots, Suppression by Soldiers, 710  
 Robbing Young Children, 77  
 Salary or Wages, 3  
 Sale by Tenant for Life where Remainder not Settled, 202  
 Sale of Goods Left in Hotel, 93  
 School Teachers, Dismissal of, 667  
 Scottish Law of Landlord and Tenant, 352  
 Scottish Law of Slander, 525  
 Seller Representing that Goods are His Own Manufacture, 184  
 Separation Order, Place of Payment under, 699  
 "Servant," Meaning of Word, 699  
 Service of Subpoena, Evading, 648  
 Settled Land Act, Improvements within 682  
 Settled Land Acts, Settlements of Personality within, 601  
 Sewers and Income Tax, 382  
 Sharing Costs, 404  
 Sheppard's Touchstone as a Law Dictionary, 239  
 Shooting a Judge, 421  
 "Skidding" of Motor Omnibuses, 60  
 Slander Case, Extraordinary, 301  
 Slander of Goods, 440  
 Slate Clubs and Registration, 153  
 "Sleeping Out," 61  
 Small Holdings and Allotments Bill, 505, 523  
 Smuggling, Decline of, 477  
 Soleiland, The Case of, 789  
 Solicitors' Accounts, 91, 92, 139, 151  
 Solicitors and Prevention of Corruption Act, 153  
 Solicitors' Charging Orders, 108  
 Solicitors' Diaries, 599  
 Solicitors, Distrust of, 151  
 Solicitors in the Eighteenth Century 769  
 Solicitors' Practice Committee, 617, 645  
 Solicitors' Right of Audience in County Court, 40  
 Solicitors to Local Authorities, 778  
 Solicitor-Trustee's Remuneration, 60  
 Speculation in Theatre Tickets, 272  
 Spofforth, The late Mr., 224  
 Stamps on Foreclosure Orders, 316  
 Statutes commencing Jan. 1, 1907; 152  
 Statutory Grant of Freeholds in Possession, 354  
 Stealing Goods of Person Unknown, 526  
 Stockbrokers and Lawyers, 584  
 Streets, Liability for Non-repair of, 755  
 Study of Law under Difficulties, 619  
 Suicide and "Temporary Insanity," 421  
 Suicide, Evidence to Rebut Presumption of, 405  
 Suretyship, a Decline in, 422  
 Surrender by Operation of Law, 600  
 Surrender of Fugitive Criminals, 404  
 Surveyor's Evidence at Arbitrations, 153  
 Territorial and Personal Jurisdiction, 284, 301  
 Territorial Sovereignty, 273  
 Text-books, Citations from, 404  
 Thaw Trial, The, 186, 353  
 "Thief" as a Term of Abuse, 683  
 Title-deeds of Shares in Trust Funds, 476  
 Trade Disputes Bill, 40  
 Trade-Mark, A Novel, 107  
 Trade-Marks Act, 1905; 494, 600  
 Trade Outrages, 565  
 Trading Under the Name of a Company, 92  
 Treating Customers of Firm, 461  
 Trespassers, Expulsion of, 338  
 Trial by Judge with Assessors, 353  
 Trust by Customer of Bank, 646  
 Trusts, Codification of Law of, 406  
 Turbary, Right of, 370  
 Underground Water, Abstraction of, 405  
 Undisposed-of Residue, Right to, of Executors, 261  
 Unincorporated Society, Action Against, 592  
 Unpronounceable Names, 380  
 Unqualified Advocates, 108  
 Unregistered "Companies," 223  
 "Unwritten Law," The, 619  
 Ventilation of the New Bailey, 665



**Current Topics (continued).**

- Visitor, What is a? 317  
Voting by Machinery, 302  
Waiver of Performance of Covenant, 221  
Warranties Implied by Law, 524  
Warren, Mr. Samuel, 508  
Water Rate, Liability for, 564  
"Watering" Railway Stock, 442  
Whales, Law Relating to, 382  
Whipping Juvenile Offenders, 164  
Wife as "Lodger" of Husband, 184  
Will of Married Woman, Assent to, 440  
Will. Presumption of Revocation, 726  
Williams, The late Mr. William, 367  
Witnesses, Suppression of Names of, 600  
Woman, Emancipation of, 778  
Women Members of Incorporated Societies, 620  
Women's Suffrage, 726  
Workmen's Compensation Act, Administrative Duties under, 241  
Workmen's Compensation Act, Continuing Liabilities, 763  
Workmen's Compensation Act, "Ended" Payments under, 564  
Workmen's Compensation Act, "Dependant," Meaning of, 583  
Workmen's Compensation Act, 1906; 76, 165, 581  
Workmen's Compensation Act, 1906, Maidservants within, 600  
Works of Art, Damaging, 648  
Written Characters, 41  
Examinations, Bar, for, 30, 193, 388, 533  
Examinations, Solicitors, for, 30, 70, 116, 251, 294, 375, 431, 501, 611, 636, 675  
King's Bench Division, State of Business in, 517  
Land Registry, 360

**LEADING ARTICLES—**

- Adeption of Legacies, 527  
Administrator *Durante Absentia*, Receipts by, 479  
Airships—a Legal Problem, 771  
Australian Constitution and Privy Council, 111  
Bankrupts, After-acquired Property of, 94  
Bills of Exchange and Estoppel, 621  
Cheques Crossed "Account of Payees," 62  
Child *en ventre sa mère*, 354  
Collateral Covenants, 186  
Companies Bill, 318  
Companies, Liability of, on Contracts before Incorporation, 43, 63  
Compensation for Minerals under Railway, 684  
Completion as Affected by Registration, 304  
Compound Settlements, Trusteeship of, 78, 95  
Contract, The Making of a, 225  
Contracts for Sale by Trustees, 302  
Contracts, Interference with, 167  
Conveyancing and Settled Land Bills, 510, 528  
Copyhold Fines, Compensation for, 204  
Costs of Alternative Claims, 275  
Costs of Originating Summonses, 668  
Counsel's Receipts, 126  
Criminal Appeal Bill, 422  
Dedication by Lessees, 509  
Disseisor Bound by Equities of Dissee? 141, 155  
Dissolved Corporations and Estates in Land, 442  
Equitable Mortgages, Position of, 585  
Extraordinary Traffic Expenses, 780  
Fictitious Payees, 24, 820  
Fine for Licence to Assign, 755  
Forfeiture for Non-payment of Rent, 548  
Franchise, Household and Lodger, 494  
Fraudulent Trade, 80  
Frederic William Maitland, 154  
Guardianship of Children, 5  
*Harkness and Alsopp, Re*, Exit, 743  
Hire-purchase Agreements, Stamping of, 779  
Indexes to Law Books, 791  
Land Registry Claims, 286  
Land Transfer Act, Registration of Notice of Lease, 602  
Larceny of a Man's Own Goods, 407  
Law Libraries, 205  
Light, Right to, as between Adjoining Lessees, 42  
Limited Partnerships, 790  
Lord Davey, 287  
Married Women's Property Act, 1907; 743  
Mortgage, Effect of, on Seisin, 478, 496  
Mortgagee's Fixtures, 567  
Mortgagee's Remedies, 546  
National Law in the United States, 243  
Options to Purchase Fee Simple in Leases, 319  
Options to Purchase, Validity of, 648, 669  
Part Payment as against Devises, 407, 423

**Leading Articles (continued).**

- Patent Rights, Grants of, 4  
Patents and Designs Amendment Bill, 370, 384, 566  
Preferential Payments of Executors, 125  
Priorities of Debentures and Garnished Debts, 110  
Public Authorities' Protection Act, 697, 712, 727, 735, 744  
Railways Contracts Bill, 339  
Receipt Clause in Conveyance, 603  
Restraint on Anticipation and Perpetuities, 224  
Royal Mines, Are they Corporeal Hereditaments? 764  
Sales by Auction, 242, 262  
Securities Held by Unregistered Money-lenders, 382  
Seisin and Possession, 263  
Seizure of Money by Sheriff, 808  
Servants' Compensation, 508  
Setting Aside Chamber Orders, 526  
Settlements, Avoidance of, under 13 Eliz. c. 5; 772  
Shares in Ships, Registered Dealings with, 763  
Solicitors' Practice Committee, Recommendations of, 555  
Special Powers over Real Estate, Exercise of, 463  
Specifications, Compulsory References to Prior, 23  
Statutes, a Reading of the New, 808, 821  
Stockbrokers and Bank of England, 338  
Title by Possession and Limitation Acts, 166  
Trade-Marks, Distinctive, 274  
Trade Unions and Members of Parliament, 187  
Trustee, Acting, 620  
Tube Railways and Compensation, 23  
Two Embarrassing Decisions, 464  
Year Books, 7  
Legal Affairs in 1857; 32  
Legal Studies in University of London, 32  
Law Association, 212, 328, 533, 377, 636, 705  
Law Societies, 83, 115, 160, 230, 292, 307, 308, 327, 468, 533  
Law Society, The, 133, 213, 231, 307, 358, 447, 574, 608, 628, 654, 675, 688  
Manorial Society, 576  
**ORDERS (NEW).**—See list at head of Index to Cases Discussed.  
**OBITUARY.**  
Abraham, A. B., 555  
Addison, K.C., 431  
Armitstead, F. E., 453  
Aston, F. T., 160  
Badoock, K.C., 134  
Beale, James, 375  
Beckingsale, W. J., 390  
Billson, Sir A., 637  
Bird, E. W., 194  
Bolton, T. D., 134  
Bowker, F., 390  
Colt, F. H., 390  
Daphne, P., 792  
David, W. H., 730  
Diver, C., 375  
Field, Lord, 236  
Francis, H. J., 783  
Green, Melville, 730  
Hall, Sir Samuel, 390  
Hammond-Chambers, K.C., 691  
Harrison, G. E., 577  
Jones, Mansell, Judge, 252  
Knocker, Sir E., 744  
Lely, J. M., 577  
Lushington, Sir G., 252  
M'Connell, K. C., 147  
Maitland, F. W., 147  
Minton-Senhouse, R. M., 413  
Moore, S. A., 612  
Morgan, Sir W., 14  
Mulholland, Judge, 738  
Murphy, K.C., 691  
Pearson, W., K.C., 811  
Percival, A., 390  
Pitt-Lewis, K.C., 160  
Robinson, G. J., 555  
Spofforth, M., 252  
Stallard, F., 766  
Watson, Sir A. T., 345  
Opening of New Central Criminal Court, 294  
**POINTS TO BE NOTED.**  
Company Law, 11, 26, 97, 289, 341, 481, 550, 605, 671  
Conveyancing, 11, 26, 97, 189, 386, 409, 513, 672, 783  
**REVIEWS.**  
Agency, Bowstead's Law of, 480  
Annual Practice, The, 8, 810

## Reviews (continued).

Banking, Law of, 8  
 Building Agreements, Emden's, 188  
 Building Contracts, Hudson on, 464  
 Colonies, Law of, 8  
 Commerce in War, 385  
 Commercial Law, 25  
 Commonwealth of England, 340  
 Companies Act (Table A), Simonson on, 670  
 Companies, Summary of Law of, 409  
 Constitutional Law (Kelke's), 568  
 Contract, Carter's Law of, 568  
 Conveyancing, Elphinstone's Introduction to, 44  
 County Court Practice, Annual, 264  
 County Court Practice, Yearly, 264  
 Customs Laws, 385  
 Domestic Relations, 288  
 Election Law, 9  
 Encyclopedia of Laws of England, vol. 1, 9; vol. 2, 168; vol. 3, 409; vol. 4, 549; vol. 5, 765; vol. 6, 810  
 Encyclopedia of Local Government Law, vol. 3, 80  
 English Reports, The, vol. 68, 25; vols. 69-74, 548  
 Equity, Principles of, 25  
 Estoppel, Everest and Stode on, 511  
 Evidence, Phipson's Law of, 757  
 Foreigners in Egypt, Law as to, 782  
 Forms, Moore's Practical, 226  
 German Civil Law, 443  
 Evidence, Roscoe's Law of, 781  
 German Law as to Carriage of Goods by Sea, 782  
 Guide to Practice, 822  
 International Law, Smith and Sibley's, 355  
 Justices' Manual, Stone's, 568  
 Licensing Acts, Paterson's, 568  
 Licensing Law, MacMahon's, 244  
 Limitation of Actions, Banning's, 80  
 Local Government Act, 1894, Macmorran's, 305

## Reviews (continued).

Mannual, The Lawyer's, 622  
 Marine Insurance Act, 1906, Chalmers', 511  
 Medicine, Legal, Sellars', 244  
 Nationality and Law on the High Seas, 792  
 Notable Trials, 8  
 Parliamentary Practice, May's, 127  
 Patents, Frost's Law of, 206  
 Personal Property, Williams', 512  
 Pleading, Odger's Principles of, 44  
 Probate, Divorce, and Admiralty, Student's, 168  
 Probate, Law of, Powles and Oakley's, 8  
 Probate Practice, Coote and Tristram's, 96  
 Public Health, Glen's Law as to, 64  
 Public Trustee Act, Rudall and Greig on, 745  
 Reference Book, Lawyers', 622  
 Registration, Parliamentary and Municipal, Saint's, 244  
 Salvage, Kennedy's Law of, 529  
 Selden Society, Borough Customs, 737  
 Selden Society, Year Books of Edward II., 737  
 Statute Law, 320  
 Statutes, Paterson's, 604  
 Student's Practice, Gibson and Weldon's, 226  
 Torts, Addison's Law of, 112  
 Trade Union Law, Cohen's, 713  
 Trusts, Godefroi on, 685  
 Where to Find Your Law, 773  
 Wills and Settlements, Interpretation of, 425  
 Winding up of Companies, Gore-Browne on, 568  
 Workmen's Compensation Act, 1906, Knowles', 587  
 Yearly Practice, The, 9, 822  
 Youthful Offenders, Law as to, 64  
 Selden Society, 346  
 Solicitors' Benevolent Association, 52, 116, 173, 267, 328, 413, 485, 555, 661, 750  
 Solicitors Struck Off the Rolls, 30, 212, 572, 688  
 State of Business in King's Bench Division, 517

## New Orders, &amp;c.

CIRCUITS, 516

COLONIAL STOCK ACT, 102, 173, 374, 738

COUNTY COURTS, 278, 517, 713

COURT FEES IN COUNTY COURTS, 823

LAND TRANSFER RULES, 372, 746

MERCHANT SHIPPING ACTS, 783

PATENTS ACT, 374

PUBLIC TRUSTEE RULES, 728

PUBLIC WORKS LOANS, 373

RULES OF THE SUPREME COURT, 705

WORKMEN'S COMPENSATION ACT, 627

## Names of Cases Discussed.

Aberdeen (Earl) v Drury	184	Bridge v Portland-street Synagogue	582	Cooper v Blakiston	263
Adams' Trustees and Frost, Re	463	Buckton, Re	668	Copestake v Hoper	263
Agincourt Steamship Co. v Eastern Extension, &c., Co.	755	Bullock v London General Omnibus Co.	275	Corsealis v London County Council	...
Andrews v Bridgman	756	"Burns," The	583	Coull's Settled Estate, Re	...
Apollinaris Trade-Mark, Re...	494	Button, Re	240, 699	Cowan v Wetherall	...
Attorney-General v Duke of Richmond	711	Byford v Russell	770	Craig v Dowding	...
Bacon, Re	492	Cabot v Attorney-General for Quebec	711	Croasdel and Cammell, Laird, & Co., Re	...
Bagot v Chapman	493	Cairney v Back	110	Curtice v London and City Bank	...
Baker and Selmon, Re	302	Cameron v Youngs	352	Darnley, Re	...
Bank of England v Cutler	338	Campbell v Ritchie	683	Davis v Hutchings	...
Barclay & Co. v Poole	763	Capell v Winter	585, 603	Dawson v Braine's Tadcaster Brewery	...
Barrat v Allen	24	Carill v Carbolic Smoke Ball Co.	225	De Nicol v Curlier	...
Barrett v Irvine	789	Carpenter and Bristol Corporation, Re	778	Dewar v Goodman	...
Bastable v Little	21	Carter v London City and Midland Bank	285	Dodson, Re	...
Bates, Re	20, 76	Caswell v Cheshire Lines Committee	525	Dover Coalfields Extension, Re	...
Batten Pooll v Kennedy	764	Chaytor, Re	20	Dunraven's Settled Estates, Re	...
Bertram, Re	41	Chalinder & Herington, Re	60	Eardley v Granville	...
Bette, Re	735	Childs' Settlement, Re	601	Eden v North-Eastern Railway	...
Bevan v National Bank	62	Cholmondeley Pennell v Humphrey	710	Edmondson v John Birch & Co.	...
Birmingham Small Arms Co., Re	600	Chorlton v Lings	726	Edwards v Grove	...
Bishop v Spearing	506	Clare v Joseph	459	English v Metropolitan Water Board	...
Bourne v Salmon & Gluckstein	564	Cleethorpes Urban Council v Foster Brothers	382	Farnor v Inland Revenue Commissioners	...
Boyle v Wilson	165	Coburn v Great Northern, Piccadilly, &c., Railway	23	Fear v Morgan	...
Bozson v Altrincham Urban Council	23	Commissioners of Taxation v Palmer	261	Feeley v Andrews	...
Brandon v Hanna	441	Commonwealth v Tucker	61	Finchley Electric Light Co. v Finchley Urban Council	...



Fletcher v Rylands .....	204	Low v Dorling .....	124	Samuel Allen & Sons (Limited), Re...	567
Game, Re .....	224	McGregor v Esquimalt and Nanaimo Rail- way .....	666	Schwabacher, Re .....	647
General Council of the Bar v Inland Revenue Commissioners .....	126	McManus v Fortescue .....	242	Scott v Miller .....	404
Gibson v Payne .....	221	McNeill v Millen .....	544	— v Miller (No. 2) .....	667
Glossop v Glossop .....	810	Metropolitan Water Board v Paine...	339	— v Shephard .....	92
Glukman, Re .....	262	Mew v Windust .....	646, 667	Senior v Fountains & Burnley .....	583
Gordon v London City and Midland Bank	222	Miller v London and North-Western Rail- way .....	140	Sheldon, Re .....	30
Gorrings, Re .....	493	Miller v Major .....	345	Shine, Re .....	23
Goslan v Gillies .....	76	"Minerva," The .....	735	Simpson v Ebbw Vale Steel Co. ....	508
Gregory v The Commonwealth .....	584	Moore v Smee and Cornish .....	548	Slater, Re .....	527
Griffith v Owen .....	92	Moulis v Owen .....	301, 667	Smith v Douglas .....	494
Hadwell v Righton .....	492	Murray's Trustees v St. Margaret's Convent	618	Society for Training Teachers of the Deaf and Whittle .....	666, 796
Harkness and Allsopp, Re .....	743, 753	Nathan, Re .....	440	South-Eastern Railway and Whiffin, Re ...	788
Harrington v Ramsgate .....	526	National Mutual Life Association of Australia v Kidmar .....	316	State Banking Corporation, Re .....	259
Haskell v Boston District Messenger Co. ...	125	National Phonograph Co. v Edison-Bell Co.	167	Steele v South Wales Miners' Federation ...	187
Hastings Corporation v Letton .....	442	Newton, Chambers, & Co. v Hall .....	762	Steers v Rogers .....	24
Hazeldine, Re .....	546	Nicholas v Halter .....	336	Strong v Woodfield .....	124
Heath, Re .....	762	Nisbet and Potts, Re .....	141	Stuckey v Hooks .....	223
Heather, Re .....	23	O'Brien v Enrico .....	601	Stump v Bywater .....	734
Henderson v Arthur .....	60	Official Receiver v Cooke .....	94	Swan and Cleland's Graving Dock Co. v Maritime Insurance Co. ....	272
Herman Lichenstein & Co., Re .....	381	O'Flaherty v Browne .....	646	Swanley Coal Co. v Denton .....	464
Horton v Penn .....	420	Ogden v Ogden .....	109, 285	Sykes, Re .....	736
Howatson v Webb .....	493	Oppenheimer v Frazer .....	165, 369	Taff Vale case .....	40
Hunter and Hewlett, Re .....	202	Owry, Re .....	479	Taylor v Smetten .....	21
Ideal Bedding Co. v Holland .....	772	Palmer, Re .....	476	Thackman v Brotherhood of American Yeomen .....	405
International Plasmon v Symons' Stores ...	440	Pearce v Maidenhead Corporation ... ..	582	Thornton v Little .....	317
Irvine v Gibson .....	461	Peel v London and North-Western Railway	60, 369	Tilouko v Attorney-General for Natal ...	618
Jackson, Re, Jackson v Ward .....	647, 779	Perham v Kempster .....	420	Toland v West Ham Union .....	273, 404
Jenkins v Price .....	735	Perry v Clissold .....	166	Turner, Re .....	108
Jenkins v New Zealand Times Co. ....	462	Pixal, Re .....	223	Tyler, Re .....	384
Johnson v Pickering .....	808	Price v Clinton .....	77	Villar v Gilbey .....	354, 602
— v Walker .....	285	Reg v Jenkins .....	61	Ward v Pickle .....	524
Johnstone v Huddleston .....	20	— v Lancaster and Preston Railway ... ..	23	Webb v Outrim .....	111, 544, 618, 684
Joseph Thorley (Limited) v Orchis Steam- ship Co. ....	300	— v Price .....	336	Webster, Re .....	461
Kent v Pittall .....	494	Rex v Governor of Brixton Prison .....	202	Wedmore, Re .....	477
Kettlewell v Refuge Assurance Co. ....	585	— v Leeds Justices .....	93	Whitmore-Searle v Whitmore-Searle ...	776
Kine v Jolly .....	1	— v Llewellyn .....	40	Wilkinson v Lancashire and Yorkshire Railway .....	400
King, Re .....	184	— v Merriman .....	477	Williams v Midland Railway .....	203
Kingsbury Collieries and Moore, Re .....	761	— v Nevill .....	407	— v Ocean Coal Co. ....	602
Kingston's (Duchess) Case .....	754	Rhonda Urban Council v Taff Vale Railway	743	— v Vauxhall Colliery Co. ....	763
Lacey, Re .....	141, 407	Robbins, Re .....	92, 711	Willis v Young .....	21
Lacons v Wormald .....	742	Robinson v Rochester Folding Box Co. ...	241	Wilton's Settled Estates, Re .....	185
Lavalette v Riches .....	806	Roberts, Re .....	23	Woodall v Clifton .....	23, 319
Leonfield v London and North-Western Railway .....	204	Russell v McClymont .....	141	Worthing Corporation v Heather ... ..	3, 319, 648, 669
Lloyds Bank v Cooke .....	621	Salaman, Re .....	602	Wray v Wray .....	464
Lodge v National Union Investment Co. ...	382	Samson, Re .....	125	Wright v Zetland (Marquis) ... ..	667
London General Investment Trust v Russian Petroleum, &c., Co. ....	698			Ystradfydwg, &c. v Bonsted ... ..	382
Lord Advocate v Brown .....	421			Zuns v South-Eastern Railway .....	22
Lovell and Collard, Re .....	316				

## Names of Cases Reported.

Adams, Re, Verrier v Haskins ... ..	113	Bigge, Re, Granville v Moore ... ..	410	Chalinder & Herington, Re ... ..	69
— v Marylebone Corporation ... ..	672	Birmingham Small Arms Co., Re ... ..	591	Chamberlain v Chamberlain ... ..	357
Adams' Trustees and Frost, Re ... ..	427	"Birmam Wood," The ... ..	51	Chapman v Smith ... ..	428
Allinson v Cumberland County Council ...	532	Bist v London and South-Western Railway Co. ... ..	444	Charles (Limited), Re ... ..	101
Alston v Mineard ... ..	132	Blackburn v Blackburn ... ..	345	Chorley Corporation v Nightingale ... ..	625
Andersen v Marten ... ..	515	Blackpool and Fleetwood Tramroad Co. v Thornton Urban Council ... ..	227	Clare v Joseph ... ..	467
Anglo-Italian Bank, Re ... ..	48	Blencowe v Northamptonshire County Council ... ..	277	Clifford v Phillips ... ..	748
"Anselm," The ... ..	342	Bloomer v Currie ... ..	277	Coles and Ravenshear, Re ... ..	45
Anson, Re, Lovelace v Anson ... ..	686	Board of Trade v Baxter ... ..	701	"Commonwealth," The ... ..	386
Ashton & Co. v Honey ... ..	211	Brind, Re ... ..	133	Cooper v Blakiston ... ..	653
Ashton Smith v Owen ... ..	356	Bristol (Marquis) v Beck ... ..	190	— v Rose ... ..	673
Assicurazioni Generali de Trieste v Emprasa Assurance Corporation ... ..	703	British Vacuum Cleaner Co. v New Vacuum Cleaner Co. ... ..	553	Couturier, Re, Couturier v Shea ... ..	342
Attorney-General v Glossop ... ..	97	Brooker v Warren ... ..	171	Craxton v Oraxton ... ..	484
— v London County Council ... ..	372	Bulawayo Market and Offices Co, Re ... ..	703	Crow, Re, Ex parte Collier, Bankruptcy ...	593
— v Mersey Railway Co. ... ..	624	Bullock v London General Omnibus Co. ...	66	Curtice v London City and Midland Bank ...	554
— v Metcalf ... ..	229	"Burns," The ... ..	276	Cyclists' Touring Club, Re ... ..	172
— v Richmond (Duke), No. 1 ... ..	704	Burr v Theatre Royal ... ..	265	Danby v P. ... ..	307
— v West Riding County Council ... ..	129	Button, Re, Ex parte Havaside ... ..	373	Darlington v Roscoe & Sons ... ..	130
Attree, Re, Ex parte The Trustee ... ..	687	Caine v Palace Shipping Co. ... ..	170	Darnley, Re, Clifton v Darnley ... ..	82
B. v B. ... ..	430	Cairn Line v Trinity House Corporation ...	291	Davies v Davies ... ..	412
Bagnall v Levinstein ... ..	145	"Canning" and "Beilanoach," The Owners of ... ..	605	— v Seidson Union ... ..	208
Bake v French ... ..	326, 554	Cannings and Middlesex County Council, Re ... ..	45	Davis v Mayor, &c., of Bromley ... ..	828
Bank of England v Outler ... ..	344	Capell v Winter ... ..	570	Daves v Wilkinson ... ..	29
Barnard v Roberts ... ..	411	Carpenter and Bristol Corporation, Re ...	589	Debtor, A, Re ... ..	572
Bastable v Little ... ..	49	Caswell v Cheshire Lines Committee ... ..	532	— Ex parte Petitioning Creditor ... ..	705
Bates, Re, Hodgson v Bates ... ..	27	Catigi v M'Gregor ... ..	266	Demerara Electric Co. v White ... ..	497
Bell v Graham ... ..	412			De Moleyns and Harris's Contract, Re ...	824
Ben Haigh, Re ... ..	343			Denaby and Cadeby Collieries v Yorkshire Miners' Association ... ..	589
Bennett, Re, Ex parte The Trustee ... ..	83			De Nicole, Re, De Nicole v Carlier ... ..	47
Biddle v Hart ... ..	229			Dewar v Goodman ... ..	189
				Digby v Financial News ... ..	98

Discoverers Finance Corporation (Limited), Re ... ..	825	Leicester & Co. v Cherryman ... ..	429	S. (otherwise G.) v S. ... ..	430
Dodson, Re, Gibson v Dodson ... ..	230	Leff v Lett ... ..	532	Sadgrove v Bryden ... ..	210
Douglas v Smith ... ..	569	Levene v Maton ... ..	532	Sapio v Hackney ... ..	428
Dover Coalfields Extension (Limited), Re ...	466	Lever Brothers v Associated Newspapers (Limited) ... ..	606	Sarbathdary, Re ... ..	144
Dudley, Stourbridge, and District Electric Traction Co. and Dudley Corporation, Re ...	686	Lewis, Re, Davies v Harrison ... ..	531	Sargeant v Butterworth ... ..	429
Duncan, A Solicitor, Re ... ..	485	Lloyd v Great Western and Metropolitan Dairies ... ..	530	Sanmaraz, Re, Ex parte The Trustee ...	447
Dunlop Pneumatic Tyre Co. v Dunlop Motor Co. ... ..	715	London and Westminster Bank v Button London General Investment Trust v Russian Petroleum Co. ... ..	466 718	Schwabacher, Re, Stern v Schwabacher ...	396
Dunraven's Settled Estates, Re ... ..	653	McClure's Trusts, Re ... ..	67	Scott v Denton ... ..	82
Durham County Council and West Hartle- pool Corporation, Re ... ..	550	McManus v Fortescue ... ..	245	Senior v Fountains & Burnley (Limited) ...	590
Eden v North-Eastern Railway ... ..	623	Macmillan v Dent ... ..	46	Sewell v National Telephone Co. ... ..	207
Edmondson v Birch & Co. ... ..	207	Malone v Laskey ... ..	356	Sherwell v Combined Incandescent Mantles Syndicate ... ..	446
Edwards v Grove ... ..	27	Manchester Overseers v Winstanley ...	68	Shrewsbury v Shrewsbury ... ..	100
Egbert v Short ... ..	490	Maritime Insurance Co. v Allianz Insur- ance Co. ... ..	674	Sims, Re, Ex parte Board of Trade ...	345
Egyptian Delta Land and Investment Co., Re ... ..	211	Martin v Benjamin ... ..	50	Slater, Re, Slater v Slater ... ..	426
Field v Receiver for Metropolitan Police ...	720	Mason (Limited) v Lovatt ... ..	444	Smiles, Re ... ..	132
Fletcher v Birkenhead Corporation ... ..	171	Maxwell v Wolsey ... ..	130	Smith, Re, Smith v New ... ..	673
Forgan v Pearl Life Assurance Co. ... ..	230	Mayne, Re, Ex parte The Trustee ... ..	704	Smith v Prosser ... ..	551
Fulham Union v Woolwich Union ... ..	529	Mersey Docks and Harbour Board v "Marpesa" ... ..	530	Smitton v Orient Steam Navigation Co. ...	543
Furriers' Alliance (Limited), Re ... ..	172	Meters (Limited) v Metropolitan Gas Meters (Limited) ... ..	491	Society for Training Teachers of the Deaf and Whittle's Contract, Re ... ..	673
Galwey's Divorce Bill ... ..	306	Metropolitan Water Board v Paine ... ..	51	Society of Accountants v Goodway ... ..	248
Game, Re, Game v Tennent ... ..	210	Mexican Smelting Corporation, Re ... ..	728	Solicitor, A, Re, Ex parte Hales ... ..	626
Garrard, Re, Gordon v Craigie ... ..	209	Milner's Safe Co. v Great Northern and City Railway Co. ... ..	81	Ex parte Law Society ... ..	212
Gassiot, Re ... ..	570	Moel Tryvan Co. v Kruger ... ..	623	Southall Development Syndicate v Dunston Speyer Bros. v Inland Revenue Commis- sioners ... ..	180 98
General Council of the Bar v Inland Revenue Commissioners ... ..	159	Molesworth, Re ... ..	653	Stallion, Re ... ..	626
Gingell, Son, & Foskett v Stepney Corpora- tion ... ..	717	Moon, Re, Holmes v Holmes ... ..	552	Standard Rotary Machine Co., Re ... ..	48
Glenie v Tucker ... ..	571	Morgan v Fear ... ..	702	Stanland v North-Eastern Steel Co., ...	12
Glossop v Glossop ... ..	606	Morris & Bastert (Limited) v Loughborough Corporation ... ..	824	Star Omnibus Co. v Tagg ... ..	467
Goldsmiths Co. v Wyatt ... ..	99	Moullis v Owen ... ..	306	State Banking Corporation, Re ... ..	265
Goodwin v Sale ... ..	514	Mullen v London County Council ... ..	82	Steel v South Wales Miners' Federation ...	100
Gorrings, Re, Gorrings v Mahstedt ... ..	497	Nathan, Re, Herring v Spyer ... ..	428	Stevens v Stevens ... ..	825
Grange, Re, Chadwick v Grange ... ..	211	National Bank of Wales, Re ... ..	266	Summers, Re, Ex parte Official Receiver ...	430
Grant Richards, Re, Ex parte Deeping ...	345	National Phonograph Co. v Edison-Bell Phonograph Co. ... ..	131	Swansea Harbour Trustees v Swansea Union Sweeney v Coots ... ..	717 444
Great Eastern Railway Co. v London County Council ... ..	132	Naval, Military, and Civil Service Co- operative Society of South Africa v Services (Limited) ... ..	13	Taff Vale Railway and Cardiff Union and Radyr Overseers, Re ... ..	824
Great Yarmouth Union v Bethnal Green Guardians ... ..	607	Nelson & Sons v Nelson Line ... ..	606	Taverner v Cuff ... ..	248
Grimshaw's Divorce Bill ... ..	529	Newmark v National Phonograph Co. ...	412	Taylor v Dolter Electric Traction (Lim.) ...	702
Hadwell v Righton ... ..	500	New Nimrod Co. v Peruvian Pacific Rail- way ... ..	737	Taylor v Taylor ... ..	515
Halkett v Dudley ... ..	290	Niblett v Midland Railway Co. ... ..	211	Thorogood v Newman ... ..	81
Hall, Re, Ex parte Official Receiver ... ..	102	Nicholson v Piper ... ..	569	Thelluson v Valentia ... ..	427
Handford v George Clarke (Limited) ... ..	100	North Staffs Colliery Owners' Association v North Staffs Railway Co. ... ..	386	Tory v Dorchester Corporation ... ..	147
Harper v McIntyre ... ..	701	Oppenheimer v Frazer & Wyatt ... ..	373	Tracey Elliot v Morley ... ..	625
Harrington v Ramage ... ..	514	Palace Shipping Co. v Caine ... ..	716	Trotter v Windham ... ..	625
Harrogate Corporation v Mackay ... ..	607	Palmer v S. ... ..	653	Tucker (James) Steamship v Lamport and Holt ... ..	12
Harvey, In the Estate of ... ..	357	Partridge v Smiles ... ..	728	Turner, Re, Wood v Turner ... ..	485
Hastings Tramways Co. v Hastings Gas Co. ...	12	Peel v London and North-Western Rail- way Co. ... ..	325	Tyler, Re, Ex parte The Trustee ... ..	52
Henderson v Arthur ... ..	65	Phillip v Pennell ... ..	719	University College of North Wales v Taylor ...	357
Hinds v Buenos Ayres Tramways Co. ... ..	13	Pidcock, Re, Penny v Pidcock ... ..	514	Van Laun, Re, Ex parte Chatterton ... ..	344
Hodson v Thetard ... ..	482	Piercy, Re, Whitwham v Piercy ... ..	113	Villar v Gibbey ... ..	341
Holland Steamship Co., &c., Re ... ..	65	Pontardawe Election Petition, Re ... ..	484	Vinson v Prior Fibres Consolidated (Limited) ...	81
Holworthy Urban Council v Holworthy Rural Council ... ..	445	Pools v National Bank of China ... ..	513	Von Eckhardstein v Von Eckhardstein ...	515
Hooper v Furness Railway Co. ... ..	446	Powell v Browne ... ..	591	Waddle v Sunderland Union ... ..	14
"Hopper No. 66," The ... ..	386	Powell v Vickers, Sons, & Maxim ... ..	66	Wakefield Light Railway Co. v Wakefield Corporation ... ..	387
Horton v Colwyn Bay Urban Council ... ..	69	Reeves, Re, Edwards v Reeves-Hughes ...	325	Walker, a Lunatic, Re ... ..	482
— v Penn ... ..	249	Rex v Audley ... ..	146	Walker v Lanom ... ..	483
Hoyes v Tate ... ..	245	— v Bedford Justices ... ..	28	Wantage Union v Bristol Union ... ..	51
Hutton v Ras Steamship Co. ... ..	247	— v Brighton Corporation ... ..	409	Waring, Re, Hayward v Attorney-General ...	101
Jacob, Re, Mortimer v Mortimer ... ..	249	— v Brixton Prison (Governor), Ex parte Calberla ... ..	721	Warren v Foster Brothers Clothing Co. ...	145
Jeffries v Jeffries ... ..	468	— v Brixton Prison (Governor) Ex parte Guerin ... ..	571	Waterhouse, Re, Waterhouse v Ryley ... ..	290
Jenkins & Co., Re ... ..	715	— v Carmarthenshire Justices ... ..	114	Watts v Hemming ... ..	674
Jerome, Re ... ..	485	— v De Marney ... ..	146	Watson & Sons v Daily Record ... ..	306
Johnson v Pickering ... ..	810	— v Garrett ... ..	265	Webster, Re, Ex parte Official Receiver ...	230
Johnston v Mew, Langton, & Co. ... ..	554	— v Jackson ... ..	130	Wednesbury Corporation v Lodge Holes Colliery Co. ... ..	65
Joseph Thorley (Limited) v Orchis Steam- ship Co. ... ..	289	— v Johnson ... ..	29	West Riding Rivers Board v Robinson ...	207
Judd v Judd ... ..	500	— v Leeds Justices ... ..	50	Wheatley v Smithers ... ..	551
Jude v Reid Bros. ... ..	426	— v London Justices ... ..	720	Wilkinson v Lancashire and Yorkshire Railway Co. ... ..	481
"Kaiser Wilhelm der Grosse," The ... ..	498	— v Marsham ... ..	592	Williams, Re, Williams v Williams ... ..	68
Kent Collieries (Limited), Re, Day v Kent Collieries ... ..	498	— v Marylebone County Court Judge ...	496	— v Midland Railway Co. ... ..	191
Kershaw v Evans ... ..	27	— v Mellard ... ..	169	— v Ocean Coal Co. ... ..	551
Kine v Jolly ... ..	13	— v Middlesex Justices ... ..	482	— v Vauxhall Colliery Co. ... ..	552
King, Re, Mellor v South Australian Co. ...	48	— v Roberts ... ..	467	Willis v Young ... ..	28
— v Methuen ... ..	69	Robbins, Re, Robbins v Legge ... ..	445	Wilson, Re, Wilson v Batchelor ... ..	266
Kleinwort v Dunlop Rubber Co. ... ..	672	Robson v Biggar ... ..	249	Wilson v Carnley (No. 1) ... ..	531
Kydd v Liverpool Watch Committee ... ..	590	Roby, Re, Howlett v Newington ... ..	490	(No 2) ... ..	721
Lacy, Re, Howard v Lightfoot ... ..	67	Rowland and Marwood Steamship, Co., Re ...	131	Wilton's Settled Estates, Re, ... ..	67
Lambart v Lambart ... ..	345	Rushforth, Re, Ex parte Holmes ... ..	30	Winans v The King ... ..	674
Larcombe v Simey ... ..	49	Rushmer v Poline & Alfieri (Limited) ...	324	Wood Green Urban Council v Joseph ... ..	112
Leconfield v London and North-Western Railway Co. ... ..	27			Worcester Election, Re, Ex parte Caldicote ...	695
Leeds Corporation v Woodhouse ... ..	716			Worcester Election, Re, Ex parte William- son ... ..	14
Leatham & Sons v Johnstone-White ... ..	113			Wright, Re, Mott v Isott ... ..	47
				Wright v Zetland (Marquis) ... ..	675
				Ystradgynog and Pontypridd Sewerage Board v Bensted ... ..	588



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430  
410  
428  
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# STATUTES.

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(Statutes passed after the Autumn Adjournment.)

## CHAPTER 39.

[Intoxicating Liquors (Ireland) Act, 1906.]

An Act to amend the Law relating to the Sale of Intoxicating Liquors in Ireland on Saturdays and Sundays, and for other purposes connected therewith.

[29th November 1906.]

## CHAPTER 40.

[Marriage with Foreigners Act, 1906.]

An Act to amend the Law with respect to Marriages between British Subjects and Foreigners.

[29th November 1906.]

Be it enacted, &c.:

1. *Marriages of British subjects with foreigners abroad.*—(1) Any British subject who desires to be married in a foreign country to a foreigner according to the law of that country may, if it is desired for the purpose of complying with the requirement of the law of that country to obtain the certificate hereinafter mentioned, give notice of the marriage, if resident in the United Kingdom, to the registrar, and if resident abroad, to the marriage officer, and apply to the registrar or officer for a certificate that after proper notices have been given no legal impediment to the marriage has been shown to the registrar or officer to exist, and the registrar or officer shall, after the conditions set out in the Schedule to this Act have been complied with, give the certificate applied for unless the certificate is forbidden or a caveat is in operation as provided in that Schedule, or some legal impediment to the marriage is shown to the registrar or officer to exist.

(2) If a person—

- (a) knowingly and wilfully makes a false oath or signs a false notice of marriage for the purpose of a certificate under this section; or
- (b) forbids the granting of a certificate under this section by falsely representing himself to be a person who is authorised to forbid the certificate, knowing that representation to be false,

that person shall be guilty of perjury, and if the offence is committed abroad, may be tried in any county or place in the United Kingdom in which the offender may be, and dealt with in the same manner in all respects as if the offence had been committed in that county or place.

(3) If any person enters a caveat on grounds which the registrar or officer or, in case of appeal, the Registrar-General declares to be frivolous, that person shall be liable to pay as a debt to the applicant for the certificate such sum as the registrar or officer or, in the case of appeal, the Registrar-General considers to be proper compensation for the damage caused to the applicant by the entering of the caveat.

(4) Such fees may be charged in respect of any notice of an intended marriage, or any application for or grant of a certificate, or the entering of a caveat under this section, as may be fixed, as respects certificates to be granted by or caveats entered with registrars, by the Registrar-General, with the consent of His Majesty in Council, and, as respects certificates to be granted by or caveats entered with a marriage officer, as may be fixed by order under the Consular Salaries and Fees Act, 1901 [54 & 55 Vict. c. 36.]

2. *Marriage of foreigners with British subjects in the United Kingdom*—(1) Where arrangements

have been made to the satisfaction of His Majesty with any foreign country for the issue by the proper officers of that country, in the case of persons subject to the marriage law of that country proposing to marry British subjects in the United Kingdom, of certificates that after proper notices have been given no impediment according to the law of that country has been shown to exist to the marriage, His Majesty may, by Order in Council, make regulations—

- (a) requiring any person, subject to the marriage law of that foreign country, who is to be married to a British subject in the United Kingdom, to give notice of the fact that he is subject to the marriage law of that country to the person by or in the presence of whom the marriage is to be solemnised; and
- (b) forbidding any person to whom such a notice is given to solemnise the marriage or to allow it to be solemnised until such a certificate as aforesaid is produced to him.

(2) If any person knowingly acts in contravention of, or fails to comply with, any such regulation, he shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding one year.

(3) Nothing in this section shall be taken to relate or have any reference to any marriages between two persons professing the Jewish religion solemnised according to the usages of the Jews in the presence of the secretary of a synagogue authorised by either the Births and Deaths Registration Act, 1836 [6 & 7 Will. 4, c. 86], or the Marriages (Ireland) Act, 1844 [7 & 8 Vict. c. 81], or by the Marriage and Registration Act, 1856 [19 & 20 Vict. c. 119], to register such a marriage, or of a deputy appointed by such secretary by writing under his hand, and approved by the president for the time of the London committee of deputies of the British Jews by writing under his hand.

3. *Power to make general regulations.* His Majesty may by Order in Council make general regulations prescribing the forms to be used under this Act and making such other provisions as seem necessary or expedient for the purposes of this Act, and may by Order in Council revoke, alter, or add to any Order in Council made under this Act.

4. *Interpretation.* In this Act, unless the context otherwise requires—

The expressions "Registrar-General" and "registrar" mean respectively the Registrar-General within the meaning of the Births and Deaths Registration Act, 1836, and a superintendent registrar of marriages within the meaning of the Marriage Act, 1836; and

The expression "marriage officer" means a marriage officer for the time being under the Foreign Marriage Act, 1892 [55 & 56 Vict. c. 23], and includes any person for the time being empowered to register a marriage under section eighteen of that Act.

5. *Application to Scotland.*—In the application of this Act to Scotland—

- (1) References to the forbidding of a certificate shall not apply;
- (2) A reference to a caveat shall be construed as a reference to an objection, and the provisions respecting the entry of a caveat on frivolous grounds shall not apply;
- (3) The expressions "Registrar-General" and "registrar" mean respectively the Registrar-General of births, deaths, and marriages in Scotland, and the registrar of births, deaths, and marriages for a parish or district under

the Registration of Births, Deaths, and Marriages (Scotland) Act, 1854 [17 & 18 Vict. c. 80], and the Acts amending that Act;

- (4) Paragraph (a) of sub-section one of section two shall be read as if the following words were inserted after the word "solemnised," namely, "or to any registrar, law agent, or other person whom he desires to draw up any declaration of irregular marriage between him and a British subject"; and paragraph (b) of the same sub-section shall be read as if the following words were inserted after the word "solemnised," namely, "or to aid in effecting the said irregular marriage."
- (5) The duly appointed minister of a synagogue shall be substituted in sub-section (3) of section two for the secretary of the synagogue or deputy as described in that sub-section.

6. *Application to Ireland.*—In the application of this Act to Ireland the expressions "Registrar-General" and "registrar" mean respectively the Registrar-General and registrar within the meaning of the Marriages (Ireland) Act, 1844.

7. *Short title.* This Act may be cited as the Marriage with Foreigners Act, 1906.

## SCHEDULE.

### PART I.

#### PROVISIONS APPLICABLE EXCEPT IN SCOTLAND.

##### A.—CONDITIONS.

1. The applicant shall sign a notice stating the name, surname, profession, condition, nationality, and residence of each of the parties to the marriage, and whether each of the parties is or is not a minor.

2. The applicant shall at the time of giving the notice make and subscribe in a book to be kept by the registrar or officer for the purpose, an oath—

- (a) that the applicant believes that there is no impediment to the marriage by reason of kindred or alliance, or otherwise; and
- (b) that the applicant has for three weeks immediately preceding had his usual residence within the district of the registrar or officer; and

(c) if the applicant, not being a widower or widow, is under the age of twenty-one years, that the consent of the persons whose consent to the marriage is required by law has been obtained thereto, or that there is no person having authority to give that consent, as the case may be.

3. The registrar or officer shall file every such notice and keep it with the archives of his office, and shall forthwith enter in a book of notices to be kept by him for the purpose, and post up in some conspicuous place in his office a copy of every such notice, and shall keep it so posted up for at least twenty-one days.

4. The book in which the notice is entered, and the copy posted up, shall be open at all reasonable times without fee to the inspection of any person.

##### B.—PROVISIONS AS TO FORBIDDING CERTIFICATE, AND AS TO CAVEATS.

5. Any person whose consent is required by law to marriages solemnised in England may forbid the certificate by writing the word "forbidden" opposite to the entry of the application in the book of notices, and by subscribing thereto his name and residence and the character by reason of which he is authorised to forbid the certificate.

6.—(a) Any person may enter with the registrar or officer a caveat against the granting of the certificate, signed by him or in his behalf and stating his residence and the grounds of his objection.

(b) The registrar or officer shall examine into the matter of the caveat and decide whether it ought to obstruct the giving of the certificate or not, but he may if he thinks fit refer the matter to the Registrar-General to decide. If the registrar or officer decides the question himself, and decides that the caveat ought to obstruct the granting of the certificate, the applicant for the certificate may appeal to the Registrar-General in manner provided by regulations made under this Act.

(c) The caveat shall cease to operate—

- (i) if withdrawn by the persons entering it; or
- (ii) if it is decided by the registrar or officer or by the Registrar-General on appeal that it ought not to obstruct the giving of the certificate.

## PART II.

### PROVISIONS APPLICABLE IN SCOTLAND.

#### A.—CONDITIONS.

1. The applicant shall give a notice to the registrar of the parish or district in which he shall have resided for a period of not less than fifteen clear days previous to the giving thereof. Such notice shall be in the form as nearly as may be set forth in Schedule A. to the Marriage Notice (Scotland) Act, 1878 (41 & 42 Vict. c. 43), but shall state, in addition to the particulars therein set out, the nationality of the parties to the intended marriage.

2. On the receipt of a notice of an intended marriage, the registrar, being satisfied that the notice is conformable to the requirements of this Act, shall forthwith enter the particulars set forth in the notice in the Marriage Notice Book kept in terms of the Marriage Notice (Scotland) Act, 1878, and shall on the same day post or put up in a conspicuous and accessible place on the door or outer wall of his office a public notice of the intended marriage, in the form as nearly as may be set forth in the Schedule B. annexed to the said last-mentioned Act, but stating, in addition to the particulars therein set out, the nationality of the parties to the intended marriage, and shall keep the same so posted or put up for seven consecutive days thereafter.

#### B.—PROVISIONS AS TO OBJECTIONS.

3.—(a) Any person may enter with the registrar an objection against the granting of the certificate signed by him or on his behalf, and stating his residence and the grounds of his objection.

(b) The registrar shall refer any objection to the Registrar-General, who shall decide whether it ought to obstruct the granting of the certificate or not, and shall instruct the registrar accordingly, and the instructions so given shall be carried out by the registrar.

(c) The objection shall cease to operate—

- (i) if withdrawn by the person entering it; or
- (ii) if it is decided by the Registrar-General that it ought not to obstruct the granting of the certificate.

## CHAPTER 41.

### [Marine Insurance Act, 1906.]

An Act to codify the Law relating to Marine Insurance. [21st December 1906.]

Be it enacted, &c.:

#### Marine Insurance.

1. *Marine insurance defined.*—A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure.

2. *Mixed sea and land risks.*—(1) A contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the assured against losses on inland waters or on any land risk which may be incidental to any sea voyage.

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, shall apply thereto; but, except as by this section provided, nothing in this Act shall alter or affect any rule of law applicable

to any contract of insurance other than a contract of marine insurance as by this Act defined.

#### 3. *Marine adventure and maritime perils defined.*—

(1) Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance.

(2) In particular there is a marine adventure where—

- (a) Any ship goods or other moveables are exposed to maritime perils. Such property is in this Act referred to as “insurable property”;
- (b) The earning or acquisition of any freight, passage money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;
- (c) Any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property, by reason of maritime perils.

“Maritime perils” means the perils consequent on, or incidental to, the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detentions of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy.

#### Insurable Interest.

#### 4. *Avoidance of wagering or gaming contracts.*—

(1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance is deemed to be a gaming or wagering contract—

- (a) Where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or
- (b) Where the policy is made “interest or no interest,” or “without further proof of interest than the policy itself,” or “without benefit of salvage to the insurer,” or subject to any other like term:

Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

#### 5. *Insurable interest defined.*—(1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss, or by damage thereto, or by the detention thereof, or may incur liability in respect thereof.

6. *When interest must attach.*—(1) The assured must be interested in the subject-matter insured at the time of the loss though he need not be interested when the insurance is effected:

Provided that where the subject-matter is insured “lost or not lost,” the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss, and the insurer was not.

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss.

7. *Defensible or contingent interest.*—(1) A defensible interest is insurable, as also is a contingent interest.

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise.

8. *Partial interest.*—A partial interest of any nature is insurable.

9. *Re-insurance.*—(1) The insurer under a contract of marine insurance has an insurable interest in his risk, and may re-insure in respect of it.

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such re-insurance.

10. *Bottomry.*—The lender of money on bottomry or respondentia has an insurable interest in respect of the loan.

11. *Master's and seamen's wages.*—The master of any member of the crew of a ship has an insurable interest in respect of his wages.

12. *Advance freight.*—In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss.

13. *Charges of insurance.*—The assured has an insurable interest in the charges of any insurance which he may affect.

14. *Quantum of interest.*—(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss.

15. *Assignment of interest.*—Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there be an express or implied agreement with the assignee to that effect.

But the provisions of this section do not affect a transmission of interest by operation of law.

#### Insurable Value.

16. *Measure of insurable value.*—Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:—

- (1) In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements (if any) incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole:

The insurable value, in the case of a steamship, includes also the machinery, boilers, and coals and engine stores, if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade:

- (2) In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance:

- (3) In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole:

- (4) In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance.

#### Disclosure and Representations.

17. *Insurance is uberrimae fidei.*—A contract of marine insurance is a contract based upon the utmost good faith, and, if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

18. *Disclosure by assured.*—(1) Subject to the provisions of this section, the assured must disclose to the insurer, before the contract is concluded, every material circumstance which is known to the assured, and the assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known by him. If the assured fails to make such disclosure, the insurer may avoid the contract.

(2) Every circumstance is material which would influence the judgment of a prudent insurer in



fixing the premium, or determining whether he will take the risk.

(3) In the absence of inquiry the following circumstances need not be disclosed, namely:—

- (a) Any circumstance which diminishes the risk;
  - (b) Any circumstance which is known or presumed to be known to the insurer. The insurer is presumed to know matters of common notoriety or knowledge, and matters which an insurer in the ordinary course of his business, as such, ought to know;
  - (c) Any circumstance as to which information is waived by the insurer;
  - (d) Any circumstance which it is superfluous to disclose by reason of any express or implied warranty.
- (4) Whether any particular circumstance, which is not disclosed, be material or not is, in each case, a question of fact.
- (5) The term "circumstance" includes any communication made to, or information received by, the assured.

**19. Disclosure by agent effecting insurance.]** Subject to the provisions of the preceding section as to circumstances which need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer.

- (a) Every material circumstance which is known to himself, and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, him; and
- (b) Every material circumstance which the assured is bound to disclose, unless it come to his knowledge too late to communicate it to the agent.

**20. Representations pending negotiations of contract.]**—(1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true. If it be untrue the insurer may avoid the contract.

(2) A representation is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk.

(3) A representation may be either a representation as to a matter of fact, or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true, if it be substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it be made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

(7) Whether a particular representation be material or not is, in each case, a question of fact.

**21. When contract is deemed to be concluded.]** A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy be then issued or not; and for the purpose of shewing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract, although it be unstamped.

#### The Policy.

**22. Contract must be embodied in policy.]** Subject to the provisions of any statute, a contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Act. The policy may be executed and issued either at the time when the contract is concluded, or afterwards.

**23. What policy must specify.]** A marine policy must specify—

- (1) The name of the assured, or of some person who effects the insurance on his behalf;
- (2) The subject-matter insured and the risk insured against;
- (3) The voyage, or period of time, or both, as the case may be, covered by the insurance;
- (4) The sum or sums insured;
- (5) The name or names of the insurers.

**24. Signature of insurer.]**—(1) A marine policy

must be signed by or on behalf of the insurer, provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal.

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, constitutes a distinct contract with the assured.

**25. Voyage and time policies.]**—(1) Where the contract is to insure the subject-matter at and from, or from one place to another or others, the policy is called a "voyage policy," and where the contract is to insure the subject-matter for a definite period of time the policy is called a "time policy." A contract for both voyage and time may be included in the same policy.

(2) Subject to the provisions of section eleven of the Finance Act, 1901 [1 Edw. 7, c. 7], a time policy which is made for any time exceeding twelve months is invalid.

**26. Designation of subject-matter.]**—(1) The subject-matter insured must be designated in a marine policy with reasonable certainty.

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured.

**27. Valued policy.]**—(1) A policy may be either valued or unvalued.

(2) A valued policy is a policy which specifies the agreed value of the subject-matter insured.

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is as between the insurer and assured conclusive of the insurable value of the subject intended to be insured, whether the loss be total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss.

**28. Unvalued policy.]** An unvalued policy is a policy which does not specify the value of the subject-matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained, in the manner hereinbefore specified.

**29. Floating policy by ship or ships.]**—(1) A floating policy is a policy which describes the insurance in general terms, and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by indorsement on the policy, or in other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment. They must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration.

**30. Construction of terms in policy.]**—(1) A policy may be in the form in the First Schedule to this Act.

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the First Schedule to this Act shall be construed as having the scope and meaning in that schedule assigned to them.

**31. Premium to be arranged.]**—(1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in

a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable.

#### Double Insurance.

**32. Double insurance.]**—(1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance.

(2) Where the assured is over-insured by double insurance—

(a) The assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act;

(b) Where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject-matter insured;

(c) Where the policy under which the assured claims is an unvalued policy he must give credit, as against the full insurable value, for any sum received by him under any other policy;

(d) Where the assured receives any sum in excess of the indemnity allowed by this Act, he is deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves.

#### Warranties, &c.

**33. Nature of warranty.]**—(1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts.

(2) A warranty may be express or implied.

(3) A warranty, as above defined, is a condition which must be exactly complied with, whether it be material to the risk or not. If it be not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date.

**34. When breach of warranty excused.]**—(1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law.

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied, and the warranty complied with, before loss.

(3) A breach of warranty may be waived by the insurer.

**35. Express warranties.]**—(1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

(2) An express warranty must be included in, or written upon, the policy, or must be contained in some document incorporated by reference into the policy.

(3) An express warranty does not exclude an implied warranty, unless it be inconsistent therewith.

**36. Warranty of neutrality.]** Where insurable property, whether ship or goods, is expressly warranted neutral, there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral" there is also an implied condition that, so far as the assured can control the matter, she shall properly be documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers, or use simulated papers. If any loss occurs through breach of this condition, the insurer may avoid the contract.

**37. No implied warranty of nationality.]** There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk.

**38. Warranty of good safety.]** Where the subject-matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it be safe at any time during that day.

**39. Warranty of seaworthiness of ship.]**—(1) In a voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall, at the commencement of the risk, be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure, but where, with the privity of the assured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness.

**40. No implied warranty that goods are seaworthy.]**—(1) In a policy on goods or other moveables there is no implied warranty that the goods or moveables are seaworthy.

(2) In a voyage policy on goods or other moveables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other moveables to the destination contemplated by the policy.

**41. Warranty of legality.]** There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner.

#### *The Voyage.*

**42. Implied condition as to commencement of risk.]**—(1) Where the subject-matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure be not so commenced the insurer may avoid the contract.

(2) The implied condition may be negated by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition.

**43. Alteration of port of departure.]** Where the place of departure is specified by the policy, and the ship instead of sailing from that place sails from any other place, the risk does not attach.

**44. Sailing for different destination.]** Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach.

**45. Change of voyage.]**—(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs.

**46. Deviation.]**—(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) There is a deviation from the voyage contemplated by the policy—

(a) Where the course of the voyage is specifically designated by the policy, and that course is departed from; or

(b) Where the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) The intention to deviate is immaterial; there must be a deviation in fact to discharge the insurer from his liability under the contract.

**47. Several ports of discharge.]**—(1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy. If she does not there is a deviation.

(2) Where the policy is to "ports of discharge," within a given area, which are not named, the ship must, in the absence of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order. If she does not there is a deviation.

**48. Delay in voyage.]** In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable despatch, and, if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable.

**49. Excuses for deviation or delay.]**—(1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused—

(a) Where authorised by any special term in the policy; or

(b) Where caused by circumstances beyond the control of the master and his employer; or

(c) Where reasonably necessary in order to comply with an express or implied warranty; or

(d) Where reasonably necessary for the safety of the ship or subject-matter insured; or

(e) For the purpose of saving human life, or aiding a ship in distress where human life may be in danger; or

(f) Where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or

(g) Where caused by the barratrous conduct of the master or crew, if barratry be one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course, and prosecute her voyage, with reasonable despatch.

#### *Assignment of Policy.*

**50. When and how policy is assignable.]**—(1) A marine policy is assignable unless it contains terms expressly prohibiting assignment. It may be assigned either before or after loss.

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by indorsement thereon or in other customary manner.

**51. Assured who has no interest cannot assign.]** Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative:

Provided that nothing in this section affects the assignment of a policy after loss.

#### *The Premium.*

**52. When premium payable.]** Unless otherwise agreed, the duty of the assured or his agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium.

**53. Policy effected through broker.]**—(1) Unless otherwise agreed, where a marine policy is effected on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium, and the insurer is directly responsible to the assured for the amount which may be payable in respect of losses, or in respect of returnable premium.

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and his charges in respect of effecting the policy; and, where he has dealt with the person who employs him as a principal, he has also a lien on the policy in respect of any balance on any insurance account which may be due to him from such person, unless when the debt was incurred he had reason to believe that such person was only an agent.

**54. Effect of receipt on policy.]** Where a marine policy effected on behalf of the assured by a broker acknowledges the receipt of the premium, such acknowledgment is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and broker.

#### *Loss and Abandonment.*

**55. Included and excluded losses.]**—(1) Subject to the provisions of this Act, and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss which is not proximately caused by a peril insured against.

(2) In particular,—

(a) The insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;

(b) Unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay be caused by a peril insured against;

(c) Unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils.

**56. Partial and total loss.]**—(1) A loss may be either total or partial. Any loss other than a total loss, as hereinafter defined, is a partial loss.

(2) A total loss may be either an actual total loss, or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive, as well as an actual, total loss.

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial, and not total.

**57. Actual total loss.]**—(1) Where the subject-matter insured is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

(2) In the case of an actual total loss no notice of abandonment need be given.

**58. Missing ship.]** Where the ship concerned in the adventure is missing, and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed.

**59. Effect of transhipment, &c.]**—Where, by a peril insured against, the voyage is interrupted at an intermediate port or place, under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and re-shipping the goods or other moveables, or in transhipping them, and sending them on to their destination, the liability of the



insurer continues, notwithstanding the landing or transhipment.

**60. Constructive total loss defined.]—**(1) Subject to any express provision in the policy, there is a constructive total loss where the subject-matter insured is reasonably abandoned on account of its actual loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

(2) In particular, there is a constructive total loss—

(i) Where the assured is deprived of the possession of his ship or goods by a peril insured against, and (a) it is unlikely that he can recover the ship or goods, as the case may be, or (b) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered; or

(ii) In the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired.

In estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(iii.) In the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

**61. Effect of constructive total loss.]** Where there is a constructive total loss the assured may either treat the loss as a partial loss, or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss.

**62. Notice of abandonment.]—**(1) Subject to the provisions of this section, where the assured elects to abandon the subject-matter insured to the insurer, he must give notice of abandonment. If he fails to do so the loss can only be treated as a partial loss.

(2) Notice of abandonment may be given in writing, or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms which indicate the intention of the assured to abandon his insured interest in the subject-matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character the assured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer. The mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable. The acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has re-insured his risk, no notice of abandonment need be given by him.

**63. Effect of abandonment.]—**(1) Where there is a valid abandonment the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured, and all proprietary rights incidental thereto.

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss.

*Partial Losses (including Salvage and General Average and Particular Charges).*

**64. Particular average loss.]—**(1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss.

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, are called particular charges. Particular charges are not included in particular average.

**65. Salvage charges.]—**(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

(2) "Salvage charges" means the charges recoverable under maritime law by a salvor independently of contract. They do not include the expenses of services in the nature of salvage rendered by the assured or his agents, or any person employed for hire by them, for the purpose of averting a peril insured against. Such expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred.

**66. General average loss.]—**(1) A general average loss is a loss caused by or directly consequential on a general average act. It includes a general average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him; and, in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject insured, he may recover therefrom from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those subjects were owned by different persons.

*Measure of Indemnity.*

**67. Extent of liability of insurer for loss.]—**(1) The sum which the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or, in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there be more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

**68. Total loss.]** Subject to the provisions of this Act and to any express provision in the policy, where there is a total loss of the subject-matter insured,—

(1) If the policy be a valued policy, the measure of indemnity is the sum fixed by the policy;

(2) If the policy be an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured.

**69. Partial loss of ship.]** Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the policy, is as follows:—

(1) Where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;

(2) Where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above;

(3) Where the ship has not been repaired, and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above.

**70. Partial loss of freight.]—**Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy.

**71. Partial loss of goods, merchandise, &c.]** Where there is a partial loss of goods, merchandise, or other moveables, the measure of indemnity, subject to any express provision in the policy, is as follows:—

(1) Where part of the goods, merchandise, or other moveables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;

(2) Where part of the goods, merchandise, or other moveables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;

(3) Where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value;

(4) "Gross value" means the wholesale price or, if there be no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers.

**72. Apportionment of valuation.]—**(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

(2) Where a valuation has to be apportioned, and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods.

**73. General average contributions and salvage charges.**—(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution, if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter be not insured for its full contributory value, or if only part of it be insured, the indemnity payable by the insurer must be reduced in proportion to the under insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

(2) Where the insurer is liable for salvage charges the extent of his liability must be determined on the like principle.

**74. Liabilities to third parties.**—Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability.

**75. General provisions as to measure of indemnity.**—(1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained, as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

(2) Nothing in the provisions of this Act relating to the measure of indemnity shall affect the rules relating to double insurance or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy.

**76. Particular average warranties.**—(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured. Particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded.

**77. Successive losses.**—(1) Unless the policy otherwise provides, and subject to the provisions of this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss, which has not been repaired or otherwise made good, is followed by a total loss, the assured can only recover in respect of the total loss:

Provided that nothing in this section shall affect the liability of the insurer under the suing and labouring clause.

**78. Suing and labouring clause.**—(1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the insured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and

salvage charges, as defined by this Act, are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss.

#### Rights of Insurer on Payment.

**79. Right of subrogation.**—(1) Where the insurer pays for a total loss, either of the whole, or in the case of goods of any apportionable part, of the subject-matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss.

(2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject-matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss, in so far as the assured has been indemnified, according to this Act, by such payment for the loss.

**80. Right of contribution.**—(1) Where the assured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers, to contribute ratably to the loss in proportion to the amount for which he is liable under his contract.

(2) If any insurer pays more than his proportion of the loss, he is entitled to maintain an action for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt.

**81. Effect of under insurance.**—Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance.

#### Return of Premium.

**82. Enforcement of return.**—Where the premium, or a proportionate part thereof is, by this Act, declared to be returnable,—

(a) If already paid, it may be recovered by the assured from the insurer; and

(b) If unpaid, it may be retained by the assured or his agent.

**83. Return by agreement.**—Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured.

**84. Return for failure of consideration.**—(1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured.

(3) In particular—

(a) Where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided that there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;

(b) Where the subject-matter insured, or part thereof, has never been imperilled, the premium, or, as the case may be, a proportionate part thereof, is returnable:

Provided that where the subject-matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not

returnable unless, at such time, the insurer knew of the safe arrival;

(c) Where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, provided that this rule does not apply to a policy effected by way of gaming or wagering;

(d) Where the assured has a defeasible interest which is terminated during the currency of the risk, the premium is not returnable;

(e) Where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;

(f) Subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable:

Provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby, no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable.

#### Mutual Insurance.

**85. Modification of Act in case of mutual insurance.**—(1) Where two or more persons mutually agree to insure each other against marine losses there is said to be a mutual insurance.

(2) The provisions of this Act relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

(3) The provisions of this Act, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association, or by the rules and regulations of the association.

(4) Subject to the exceptions mentioned in this section, the provisions of this Act apply to a mutual insurance.

#### Supplemental.

**86. Ratification by assured.**—Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss.

**87. Implied obligations varied by agreement or usage.**—(1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negated or varied by express agreement, or by usage, if the usage be such as to bind both parties to the contract.

(2) The provisions of this section extend to any right, duty, or liability declared by this Act which may be lawfully modified by agreement.

**88. Reasonable time, &c., a question of fact.**—Where by this Act any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact.

**89. Slip as evidence.**—Where there is a duly stamped policy, reference may be made, as heretofore, to the slip or covering note, in any legal proceeding.

**90. Interpretation of terms.**—In this Act, unless the context or subject-matter otherwise requires,—

"Action" includes counter-claim and set off;

"Freight" includes the profit derivable by a shipowner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third party, but does not include passage money;

"Moveables" means any moveable tangible property, other than the ship, and includes money, valuable securities, and other documents;

"Policy" means a marine policy.

**91. Savings.**—(1) Nothing in this Act, or in any repeal effected thereby, shall affect—

(a) The provisions of the Stamp Act, 1891 [54 & 55 Vict. c. 39], or any enactment for the time being in force relating to the revenue;

(b) The provisions of the Companies Act, 1862 [25 & 26 Vict. c. 89], or any enactment amending or substituted for the same;



(c) The provisions of any statute not expressly repealed by this Act.

(2) The rules of the common law including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts of marine insurance.

92. *Repeals.*] The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in that schedule.

93. *Commencement.*] This Act shall come into operation on the first day of January one thousand nine hundred and seven.

94. *Short title.*] This Act may be cited as the Marine Insurance Act, 1906.

# SCHEDULES.

## FIRST SCHEDULE.

[Section 30.]

### FORM OF POLICY.

BE IT KNOWN THAT as well in own name as for and in the name and names of all and every other person or persons to whom the name doth, may, or shall appertain, in part or in all doth make assurance and cause and them, and every of them, to be insured lost or not lost, at and from Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the whereof is master under God, for this present voyage, or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, upon the said ship, &c. and so shall continue and endure, during her abode there, upon the said ship, &c. And further, until the said ship, with all her ordnance, tackle, apparel, &c., and goods and merchandises whatsoever shall be arrived at upon the said ship, &c., until she hath moored at anchor twenty-four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, &c., in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever without prejudice to this insurance. The said ship, &c., goods and merchandises, &c., for so much as concerns the assured by agreement between the assured and assurers in this policy, are and shall be valued at

Touching the adventures and perils which we the assurers are contented to bear and do take upon us in this voyage: they are of the sea, men of war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and counter-mart, surprisals, takings at sea, arrests, restraints, and detentions of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, &c., or any part thereof. And in case of any loss or misfortune it shall be lawful to the assured, their factors, servants and assigns, to sue, labour, and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and ship, &c., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true

performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of

In Witness whereof we, the assurers, have subscribed our names and sums assured in London.

N.B.—Corn, fish, salt, fruit, flour, and seed are warranted free from average, unless general, or the ship be stranded—sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under five pounds per cent., and all other goods, also the ship and freight, are warranted free from average, under three pounds per cent. unless general, or the ship be stranded.

### Rules for Construction of Policy.

The following are the rules referred to by this Act for the construction of a policy in the above or other like form, where the context does not otherwise require:—

1. Where the subject-matter is insured "lost or not lost," and the loss has occurred before the contract is concluded, the risk attaches unless, at such time the assured was aware of the loss, and the insurer was not.

2. Where the subject-matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured.

3.—(a) Where a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately.

(b) If she be not at that place when the contract is concluded the risk attaches as soon as she arrives there in good safety, and unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival.

(c) Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety.

(d) Where freight, other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandises are shipped; provided that if there be cargo in readiness which belongs to the shipowner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo.

(4) Where goods or other moveables are insured "from the loading thereof," the risk does not attach until such goods or moveables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship.

5. Where the risk on goods or other moveables continues until they are "safely landed," they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases.

(6) In the absence of any further license or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorise the ship to depart from the course of her voyage from the port of departure to the port of destination.

7. The term "perils of the seas" refers only to fortuitous accidents or casualties of the seas. It does not include the ordinary action of the winds and waves.

8. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore.

9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers.

10. The term "arrests, &c., of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process.

11. The term "barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer.

12. The term "all other perils" includes only perils similar in kind to the perils specifically mentioned in the policy.

13. The term "average unless general" means a partial loss of the subject-matter insured other than a general average loss, and does not include "particular charges."

14. Where the ship has stranded, the insurer is liable for the excepted losses, although the loss is

not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods, that the damaged goods are on board.

15. The term "ship" includes the hull, materials and outfit, stores and provisions for the officers and crew, and, in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals and engine stores, if owned by the assured.

16. The term "freight" includes the profit derivable by a shipowner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third party, but does not include passage money.

17. The term "goods" means goods in the nature of merchandise, and does not include personal effects or provisions and stores for use on board.

In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods.

## SECOND SCHEDULE.

### ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
19 Geo. 2, c. 37.	An Act to regulate insurance on ships belonging to the subjects of Great Britain, and on merchandises or effects laden thereon.	The whole Act.
28 Geo. 3, c. 56.	An Act to repeal an Act made in the twenty-fifth year of the reign of his present Majesty, intituled "An Act for regulating Insurances on Ships, and on goods, merchandises, or effects," and for substituting other provisions for the like purpose in lieu thereof.	The whole Act so far as it relates to marine insurance.
31 & 32 Vict. c. 86.	The Policies of Marine Assurance Act, 1868.	The whole Act.

## CHAPTER 42.

### [Licensing Act, 1906.]

An Act to remove doubts as to the manner in which the powers and duties of justices acting in and for a borough may be exercised under the Licensing Acts, 1828 to 1904.

[21st December 1906.]

Be it enacted, &c.:

1. *Justices acting for a borough under the Licensing Act may act by a majority.*—(1) It is hereby declared that where a power may be exercised or a duty is to be performed under the Licensing Acts, 1828 to 1904, or under any rule or regulation made under those Acts or any of them, by justices acting in and for a borough, including a county borough (whether those justices are described as the whole body of justices or otherwise), it is lawful and shall be deemed always to have been lawful for that power to be, and to have been, exercised and for that duty to be, and to have been, performed by a majority of the justices present at a meeting of the justices assembled for the purpose.

(2) Nothing in this Act shall prejudice the operation or enforcement of any judgment or order of any court of competent jurisdiction pronounced or made before the first day of December nineteen hundred and six as between the parties to the proceedings in which the judgment was pronounced or the order made, and any



appeal from any such judgment or order shall be decided as if this Act had not passed.

2. *Short title and construction.*] This Act may be cited as the Licensing Act, 1906, and may be cited and construed as one with the Licensing Acts, 1828 to 1904.

## CHAPTER 43.

[Street Betting Act, 1906.]

An Act for the Suppression of Betting in Streets and other Public Places.

[21st December 1906.]

Be it enacted, &c.:

1. *Betting in a street, &c.*—(1) Any person frequenting or loitering in streets or public places, on behalf either of himself or of any other person, for the purpose of bookmaking, or betting, or wagering, or agreeing to bet or wager, or paying or receiving or settling bets, shall

(a) in the case of a first offence be liable, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding ten pounds;

(b) in the case of a second offence be liable, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding twenty pounds; and

(c) in the case of a third or subsequent offence, or in any case where it is proved that the person whilst committing the offence had any betting transaction with a person under the age of sixteen years, be liable on conviction on indictment to a fine not exceeding fifty pounds or to imprisonment, with or without hard labour, for a term not exceeding six months without the option of a fine, or on conviction under the Summary Jurisdiction Acts to a fine not exceeding thirty pounds or to imprisonment, with or without hard labour, for a term not exceeding three months, without the option of a fine;

and shall in any case be liable to forfeit all books, cards, papers, and other articles relating to betting which may be found in his possession.

(2) Any constable may take into custody without warrant any person found committing an offence under this Act, and may seize and detain any article liable to be forfeited under this Act.

(3) Any person who appears to the court to be under the age of sixteen years shall for the purpose of this section be deemed to be under that age unless the contrary be proved, or unless the person charged shall satisfy the court that he had reasonable ground for believing otherwise.

(4) For the purpose of this section the word "street" shall include any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not; and the words "public place" shall include any public park, garden, or seabeach, and any unenclosed ground to which the public for the time being have unrestricted access, and shall also include every enclosed place (not being a public park or garden) to which the public have a restricted right of access, whether on payment or otherwise, if at or near every public entrance there is conspicuously exhibited by the owners or persons having the control of the place a notice prohibiting betting therein.

2. *Act not to apply to a racecourse.*] Nothing contained in this Act shall apply to any ground used for the purpose of a racecourse for racing with horses or adjacent thereto on the days on which races take place.

3. *Application to Scotland.*] In Scotland "indictment" has the same meaning as in the Criminal Procedure (Scotland) Act, 1887, and "passage" includes common close or common stair or passage leading thereto; and, in the event of an offender failing to make payment of a fine imposed under section 1 (1), (a) or (b), of this Act, he shall be liable to imprisonment in accordance with the provisions of the Summary Jurisdiction Acts; an offence prosecuted summarily under this Act may be tried before the sheriff or before any magistrate of any royal, parliamentary, or police burgh officiating under the provisions of any local or general Police Act.

4. *Application to Ireland.*] In Ireland, where in

pursuance of this Act an order is made by a court of summary jurisdiction for a term of imprisonment not exceeding one month, without the option of a fine, the party against whom the order is made shall be entitled to appeal in like manner as if the term of imprisonment exceeded one month.

5. *Short title.*] This Act may be cited as the Street Betting Act, 1906.

## CHAPTER 44.

[Burial Act, 1906.]

An Act to amend the Law with respect to the consents required for the use of ground for burials and the construction of Cemeteries.

[21st December 1906.]

Be it enacted, &c.:

1. *Consents under 18 & 19 Vict. c. 128, s. 9.*] The consent of the owner, lessee, and occupier of a dwelling-house to the use for burials of any ground used or appropriated for a burial ground or cemetery, mentioned in section nine of the Burial Act, 1855, shall not be and shall be deemed never to have been required in any case where the dwelling-house is or was begun to be erected or is or was erected or completed after any part of that ground has or had been so used or appropriated:

Provided that nothing in this section shall affect any rights acquired before the twenty-seventh day of November one thousand nine hundred and six under any judgment or order of a court of competent jurisdiction or under any agreement in writing, but if a dispute, one of the parties to which is a burial authority within the meaning of the Burial Act, 1900 [63 & 64 Vict. c. 15], arises under such an agreement as to any such right, the dispute shall, if either party so requires, be determined by the Local Government Board either as arbitrators or otherwise at the option of the Board, in like manner as if it were a difference which the Board are authorised to determine under the Local Government Act, 1888 [51 & 52 Vict. c. 41], and section sixty-three and sub-sections (1) and (5) of section eighty-seven of that Act, as amended by any subsequent enactment, shall apply accordingly.

2. *Consents under 10 & 11 Vict. c. 65.*] In section ten of the Cemeteries Clauses Act, 1847, as incorporated with the Public Health (Interments) Act, 1879 [42 & 43 Vict. c. 31], "one hundred yards" shall be substituted for "two hundred yards" as the distance from a dwelling-house within which no part of a cemetery may be constructed without the consent of the owner, lessee, and occupier of the house.

3. *Short title.*] This Act may be cited as the Burial Act, 1906, and may be cited with the Burial Acts, 1852 to 1900, as the Burial Acts, 1852 to 1906.

## CHAPTER 45.

[Removal of Offensive Matter Act, 1906.]

An Act to repeal the provisions of the Metropolitan Police Act, 1839, with respect to the removal of Offensive Matter in places within the Metropolitan Police District.

[21st December 1906.]

Be it enacted, &c.:

1. *Repeal of 2 & 3 Vict. c. 47, s. 60, as to offensive matter.*] Paragraph (4) of section sixty of the Metropolitan Police Act, 1839 (which paragraph relates to the emptying of privies and the removal of offensive matter), is hereby repealed.

2. *Short title.*] This Act may be cited as the Removal of Offensive Matter Act, 1906.

## CHAPTER 46.

[Recorders, Stipendiary Magistrates, and Clerks of the Peace Act, 1906.]

An Act to make provision as to the appointment of Deputies for Recorders, Stipendiary Magistrates, and Clerks of the Peace, and for the temporary performance of the duties of those officers in case of vacancies.

[21st December 1906.]

Be it enacted, &c.:

1. *Power to appoint deputies and persons to act*

temporarily in certain offices.]—(1) If at any time it appears to the authority having power to appoint to any office to which this Act applies that the holder of the office is, by reason of illness, absence, or any other cause, incapable of appointing or removing a deputy, the authority may exercise that power on his behalf, and in so doing may assign out of his salary or stipend a suitable remuneration to any deputy so appointed.

(2) If any office to which this Act applies becomes vacant by death or otherwise, any person who immediately before the vacancy was a duly appointed deputy of the holder of the office, or, if there is no such deputy or no such deputy willing to act, any person appointed for the purpose by the authority having power to appoint to the office may act temporarily in the office until a person is duly appointed to fill the vacancy, and any person while so acting shall be in the same position as respects remuneration and otherwise as if he were the last holder of the office: Provided that the power of a person to act temporarily under this provision shall not extend beyond a period of six months from the occurrence of the vacancy.

(3) All things required or authorised by law to be done by, to, or before the holder of any office to which this Act applies, may be done by, to, or before any deputy appointed or any person acting temporarily in the office under this Act, as if that deputy or person were the holder of the office.

(4) In cases where His Majesty has power to appoint to an office, the power to appoint a deputy or person to act temporarily under this Act may be exercised by the Secretary of State, and this Act shall be construed as if the Secretary of State were the authority having power to appoint to the office.

(5) Where any qualification is required by law in the case of a deputy of the holder of any office to which this Act applies, the same qualification shall be required as respects any person appointed to act temporarily in the office under this Act.

(6) This Act shall apply to the offices of recorder, stipendiary magistrate, and clerk of the peace, but the powers given by this Act shall be in addition to and not in derogation of any similar power existing under sub-section (4) of section eighty-three of the Local Government Act, 1888 [51 & 52 Vict. c. 41], or otherwise.

2. *Short title and repeal.*—(1) This Act may be cited as the Recorders, Stipendiary Magistrates, and Clerks of the Peace Act, 1906.

(2) The Recorders, Magistrates, and Clerks of the Peace Act, 1888 [51 & 52 Vict. c. 23], is hereby repealed.

## CHAPTER 47.

[Trade Disputes Act, 1906.]

An Act to provide for the regulation of Trades Unions and Trade Disputes.

[21st December 1906.]

Be it enacted, &c.:

1. *Amendment of law of conspiracy in the case of trade disputes.*] The following paragraph shall be added as a new paragraph after the first paragraph of section three of the Conspiracy and Protection of Property Act, 1875 [38 & 39 Vict. c. 86]:—

"An act done in pursuance of an agreement or combination by two or more persons shall, if done in contemplation or furtherance of a trade dispute, not be actionable unless the act, if done without any such agreement or combination, would be actionable."

2. *Peaceful picketing.*—(1) It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, if they so attend merely for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working.

(2) Sections seven of the Conspiracy and Protection of Property Act, 1875, is hereby repealed from "attending at or near" to the end of the section.

3. *Removal of liability for interfering with another person's business, &c.*] An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of

employment or that it is an interference with the trade, business, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

**4. Prohibition of action of tort against trade unions.]**

—(1) An action against a trade union, whether of workmen or masters, or against any members or officials thereof on behalf of themselves and all other members of the trade union in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court.

(2) Nothing in this section shall affect the liability of the trustees of a trade union to be sued in the events provided for by the Trades Union Act, 1871 [35 & 36 Vict. c. 31], section nine, except in respect of any tortious act committed by or on behalf of the union in contemplation or in furtherance of a trade dispute.

**5. Short title and construction.]**—(1) This Act may be cited as the Trade Disputes Act, 1906, and the Trade Union Acts, 1871 and 1876, and this Act may be cited together as the Trade Union Acts, 1871 to 1906.

(2) In this Act the expression "trade union" has the same meaning as in the Trade Union Acts, 1871 and 1876, and shall include any combination as therein defined, notwithstanding that such combination may be the branch of a trade union.

(3) In this Act and in the Conspiracy and Protection of Property Act, 1875, the expression "trade dispute" means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person, and the expression "workmen" means all persons employed in trade or industry, whether or not in the employment of the employer with whom a trade dispute arises; and in section three of the last-mentioned Act, the words "between employers and workmen" shall be repealed.

## CHAPTER 48.

### [Merchant Shipping Act, 1906.]

An Act to amend the Merchant Shipping Acts, 1894 to 1900.

[21st December 1906.]

Be it enacted, &c.:

#### PART I.

##### SAFETY.

**1. Application of British load-line provisions to foreign ships.]** Sections four hundred and thirty-seven to four hundred and forty-three of the principal Act (which relate to load-line) except sub-sections (3) and (4) of section four hundred and forty, shall, after the appointed day, apply to all foreign ships while they are within any port in the United Kingdom, as they apply to British ships, without prejudice—

(a) to the power of His Majesty previously to apply those provisions to the ships of any foreign country, if the Government of that country so desire, under section seven hundred and thirty-four of the principal Act; and

(b) to any direction of His Majesty in Council given under section four hundred and forty-five of the principal Act in the case of ships of any foreign country in which the regulations in force relating to overloading and improper loading are equally effective with the provisions of the principal Act.

**2. Detention of foreign ships when unsafe owing to defective equipment, &c.]** Section four hundred and sixty-two of the principal Act (which relates to the detention of foreign ships)—

(1) shall apply in the case of a ship which is unsafe by reason of the defective condition of her hull, equipments, or machinery, and accordingly that section shall be construed as if the words "by reason of the defective condition of her hull, equipments, or machinery, or" were inserted before the words "by reason of overloading or improper loading"; and

(2) shall apply with respect to any foreign ships being at any port in the United Kingdom, whether those ships take on board any cargo at that port or not.

**3. Loading of grain cargoes on foreign ships.]**—(1) After the first day of October one thousand nine hundred and seven, sections four hundred and fifty-two and four hundred and fifty-five of the principal Act shall apply to a foreign ship which loads a grain cargo in the United Kingdom so long as the ship is within a port in the United Kingdom.

(2) If, after the first day of October one thousand nine hundred and seven, a foreign ship laden with grain cargo arrives at any port in the United Kingdom, having the grain cargo so loaded that the master of the ship, if the ship were a British ship, would be liable to a penalty under the provisions of Part V. of the principal Act relating to the carriage of grain, the master of that foreign ship shall be liable to a fine not exceeding three hundred pounds.

(3) After the first day of October one thousand nine hundred and seven section four hundred and fifty-five of the principal Act shall apply to a foreign ship laden with grain which discharges all or any part of her cargo at any port in the United Kingdom so long as the ship is within a port in the United Kingdom.

(4) The provisions of sections four hundred and fifty-four of the principal Act, so far as that section provides for the delivery of the notice mentioned therein to the proper officer of customs in the United Kingdom, shall apply to all foreign ships laden with grain cargo arriving at a port in the United Kingdom after the date aforesaid, and the master of the ship shall be liable accordingly.

**4. Power to apply rules as to life-saving appliances to foreign ships in certain cases.]** Sections four hundred and twenty-seven to four hundred and thirty-one of the principal Act relating to life-saving appliances shall, after the appointed day, apply to all foreign ships while they are within any port of the United Kingdom as they apply to British ships:

Provided that His Majesty may by Order in Council direct that those provisions shall not apply to any ship of a foreign country in which the provisions in force relating to life-saving appliances appear to His Majesty to be as effective as the provisions of Part V. of the principal Act, on proof that those provisions are complied with in the case of that ship.

**5. Appointed days.]** For the purposes of this Part of this Act the appointed day shall be the first day of January nineteen hundred and nine, or such other day not being more than twelve months later, as the Board of Trade may appoint; and different days may be appointed for different provisions of this Part of this Act, and for different foreign countries.

**6. Saving for ship coming in under stress of weather, &c.]** Nothing in the foregoing provisions of this Part of this Act shall affect any foreign ship not bound to a port of the United Kingdom which comes into any part of the United Kingdom for any purpose other than the purpose of embarking or landing passengers, or taking in or discharging cargo or taking in bunker coal.

**7. Coasting steamships not to be exempt from load-line provisions.]** The exemption of ships under eighty tons register employed solely in the coasting trade under sections four hundred and thirty-seven and four hundred and thirty-eight of the principal Act (which relate to the marking of deck lines and load lines) shall cease so far as respects steamships:

Provided that the Board of Trade may except from the provisions of this section any class of steamships, so long as they do not carry cargo, and the provisions of this section shall not apply to any steamship belonging to any class so excepted.

**8. Extension of provisions as to the time of marking load-line.]**—(1) Section four hundred and forty of the principal Act (which relates to the time for marking load-lines) shall apply to all British foreign-going ships, and so far as it is applied by this Act to foreign ships, to all foreign foreign-going ships, whether the owner is required to enter the ship outwards or not.

(2) In the case of a ship which the owner is not required to enter outwards—

(a) the disc indicating the load-line shall be marked before clearance for the ship is demanded;

(b) the master shall prepare a statement similar to that required to be inserted in the form of entry under sub-section (2) of the said section four hundred and forty, and in the case of a British ship shall enter a copy of the statement in the agreement with the crew and in the official log book, and sub-sections (3) and (4) of that section shall apply accordingly;

(c) the master shall deliver a copy of the statement to the officer of customs from whom a clearance for the ship is demanded, and a clearance shall not be granted until the statement is so delivered.

(3) Where the certificate referred to in sub-section (4) of section four hundred and forty-three of the principal Act (which relates to regulations as to lead-line) is required to be delivered, the provisions of this section as to the statement to be prepared by the master shall not take effect.

(4) For the purpose of providing for an alteration of marks during a voyage, sub-section (5) of section four hundred and forty of the principal Act shall be read as if the words "or, if the mark has been altered abroad in accordance with regulations made by the Board of Trade for the purpose, marked with the mark as so altered" were added after the words "so marked," and sub-section (2) of section four hundred and forty-three of the principal Act shall be read as if the purposes for which regulations may be made under that section included provision for the alteration of marks on ships abroad.

**9. Entry in log-book of boat drill, &c.]**—(1) The master of every British ship shall enter or cause to be entered in the official log-book, a statement, or if there is no official log-book, cause a record to be kept, of every occasion on which boat drill is practised on board the ship, and on which the life-saving appliances on board the ship have been examined for the purpose of seeing that those appliances are fit and ready for use.

(2) The master shall, if and when required by any officer of the Board of Trade, produce for inspection any record kept by him for the purposes of this section.

(3) If the master of a ship fails to comply with any requirements of this section, he shall be liable on summary conviction for each offence to a fine not exceeding ten pounds.

**10. Loading of timber.]**—(1) If a ship, British or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying any heavy or light wood goods as deck cargo (except under the conditions allowed by this section), the master of the ship, and also the owner, if he is privy to the offence, shall be liable to a fine not exceeding five pounds for every hundred and fifty cubic feet of space in which wood goods are carried in contravention of this section.

(2) The conditions under which heavy wood goods may be carried as deck cargo are as follows:—

(a) that they must only be carried in covered spaces; and

(b) that they must be carried only in such class of ships as may be approved by the Board of Trade for the purpose; and

(c) that they must be loaded in accordance with regulations made by the Board of Trade with respect to the loading thereof.

(3) The conditions under which light wood goods may be carried as deck cargo are as follows:—

(a) Each unit of the goods must be of a cubic capacity not greater than fifteen cubic feet; and

(b) The height above the deck to which the goods are carried must not exceed—

(i) in the case of an uncovered space on a deck forming the top of a break, poop, or other permanent closed-in space on the upper deck, three feet above the top of that closed-in space; and

(ii) in the case of an uncovered space, not being the space forming the top of any permanent closed-in space on the upper deck or a space forming the top of a covered space, the height of the main rail, bulwark, or plating, or one-fourth of the inside breadth of the



ship, or seven feet, whichever height is the least; and

(iii) in the case of a covered space the full height of that space:

(c) Regulations may be made by the Board of Trade for the protection of seamen from any risk arising from the carriage of the goods in any uncovered space to the height allowed under this section, and those regulations must be complied with on the ship.

(4) A master or owner shall not be liable to any fine under this section—

(a) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

(b) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

(c) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the United Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.

(5) For the purposes of this section:—

(a) the expression "heavy wood goods" means—

(i) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

(ii) any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; and

(b) the expression "light wood goods" means any deals, battens, or other light wood goods of any description; and

(c) the expression "deck cargo" means any cargo carried either in any uncovered space upon deck or in any covered space not included in the cubical contents forming the ship's registered tonnage; and

(d) the space in which wood goods are carried shall be deemed to be the space limited by the superficial area occupied by the goods, and by straight lines enclosing a rectangular space sufficient to include the goods.

(6) Nothing in this section shall affect any ship not bound to a port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any purpose other than the delivery of her cargo.

(7) This section shall come into operation on the passing of this Act.

11. *Summary prosecution for offences under the loading of grain provisions.* Any offence for which a person is liable to a fine under sub-section (2) of section four hundred and fifty-two of the principal Act (which relates to the obligation to take precautions to prevent grain cargo from shifting) or under any provision of this Act which relates to the lading of grain cargoes on foreign ships may be prosecuted summarily; but the fine to which a person is liable for any such offence shall not, if the offence is prosecuted summarily, exceed a hundred pounds.

12. *Prohibition of engagement of seamen with insufficient knowledge of English.* After the thirty-first day of December nineteen hundred and seven, the superintendent or other officer before whom a seaman is engaged to be entered on board any British ship at any port in the British Islands or on the continent of Europe between the River Elbe and Brest inclusive, shall not allow a seaman to sign the agreement if in his opinion the seaman does not possess a sufficient knowledge of the English language to understand the necessary orders that may be given to him in the course of

the performance of his duties; but nothing in this section shall apply to any British subject or inhabitant of a British protectorate or to any lascar:

Provided that where a seaman has been allowed to sign an agreement after the date on which this section comes into force, and is discharged before a superintendent or other officer, the superintendent or officer shall note the fact on his certificate of discharge in manner directed by the Board of Trade, and a superintendent or other officer shall not under this section refuse to allow a seaman who holds a certificate so noted to sign an agreement unless the superintendent or officer considers that there are special reasons for the refusal, and in that case he shall make a special report of the matter to the Board of Trade.

## PART II.

### PASSENGER AND EMIGRANT SHIPS.

13. *Inclusion of foreign steamships as passenger steamers.* The definition of "passenger steamer" in section two hundred and sixty-seven of the principal Act shall be amended so as to include every foreign steamship (whether originally proceeding from a port in the United Kingdom or from a port out of the United Kingdom) which carries passengers to or from any place, or between any places, in the United Kingdom.

14. *Definition of steerage passenger.* The following paragraph shall be substituted for paragraph (3) of section two hundred and sixty-eight of the principal Act—

"(3) The expression 'steerage passenger' means all passengers except cabin passengers, and persons shall not be deemed cabin passengers unless—

(a) the space allotted to their exclusive use is in the proportion of at least thirty-six clear superficial feet to each statute adult; and

(b) the fare contracted to be paid by them amounts to at least the sum of twenty-five pounds for the entire voyage or is in the proportion of at least sixty-five shillings for every thousand miles of the length of the voyage; and

(c) they have been furnished with a duly signed contract ticket in the form prescribed by the Board of Trade for cabin passengers."

15. *Passengers landed or embarked by means of tenders.* Where a passenger steamer takes on board passengers from a tender, or lands passengers by means of a tender, she shall be deemed to be taking the passengers on board from, or landing the passengers at, the port from or to which the tender comes or goes, and passengers conveyed in a tender to or from a ship from or to a place in the United Kingdom shall for the purposes of Part III. of the principal Act, and for the purposes of any returns to be made under the Merchant Shipping Acts, be deemed to be passengers carried from or to a place in the United Kingdom.

16. *Restrictions as to the decks on which passengers may be carried.*—(1) A ship shall not carry passengers, whether cabin or steerage passengers, on more than one deck below the water line.

(2) If this section is not complied with in the case of any ship the master of the ship shall for each offence be liable to a fine not exceeding five hundred pounds.

17. *Regulations substituted for Schedules 10, 11, 12, 13, and 14 of principal Act.*—(1) The Board of Trade may prescribe regulations, scales, conditions, and forms in substitution for those contained in the Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth Schedules of the principal Act (which relate to the number of persons carried on emigrant ships, the accommodation for steerage passengers on emigrant ships, the provisions and water to be issued to steerage passengers on emigrant ships, the carriage of horses and cattle on emigrant ships, and the forms to be used under Part III. of that Act).

(2) Any reference in the Merchant Shipping Acts or in any other Act or document to any of those schedules shall be construed as a reference to the corresponding regulations, scales, conditions, or forms prescribed by the Board of Trade under this section.

18. *Copies of scale of provisions applicable to voyage to be produced to steerage passenger and posted*

up in ship.]—(1) The master of every emigrant ship shall on request produce to any steerage passenger for his perusal a copy of the scale of provisions to which that person is entitled either in pursuance of the principal Act or under any conditions subject to which the Board of Trade have dispensed with that scale in pursuance of their powers under the Merchant Shipping Acts, and shall post up copies of the scale in at least two conspicuous places between the decks on which steerage passengers may be carried, and shall keep them posted so long as any steerage passenger is entitled to remain in the ship.

(2) The master shall be liable on summary conviction to a fine not exceeding forty shillings for every day during any part of which by his act or default copies of the extracts are not posted up, and shall, if he fails to produce a copy of the scale as required by this section to a steerage passenger, for each offence be liable on summary conviction to a fine not exceeding forty shillings.

(3) If any person displaces or defaces any copy of the scale posted under this section, he shall for each offence be liable on summary conviction to a fine not exceeding forty shillings.

(4) The obligation of the master under this section shall be in addition to and not in derogation of any obligation he may be under in pursuance of section three hundred and sixty one of the principal Act.

19. *Provision as to the time at which a steerage passenger is to be ready to embark.* For the purpose of adapting section three hundred and twenty-eight of the principal Act to any hour of sailing, the following paragraph shall be substituted for paragraph (i) of that section:—

"(i) The steerage passenger is at the place of embarkation before the hour appointed in his contract, or if no hour is appointed in the contract, before any hour fixed for the embarkation of which he has received not less than twenty-four hours' notice; and"

20. *Power to allow continuing master's bond.*—

(1) The Board of Trade, on the application of the owner of any emigrant ship, may, by regulations made under this section, allow the master's bond required under section three hundred and nine of the principal Act, to be given, subject to such conditions as may be prescribed, in the form of a continuing bond as respects that ship.

(2) The Board of Trade may make regulations for the purpose of adapting the provisions of sections three hundred and nine and three hundred and ten of the principal Act to the case of a continuing bond, and for prescribing the conditions under which continuing bonds may be allowed in the case of any ship.

(3) Sub-section (3) of section three hundred and ten of the principal Act shall have effect with respect to every voyage of the ship during the continuance of the bond, and references to the arrival of the ship and the return of the ship shall be construed as references to the arrival of the ship and the return of the ship after any voyage, so far as respects matters happening during or in connection with the voyage.

21. *Penalty on master or owner for non-compliance with provisions as to passenger steamers.* If the provisions of the Merchant Shipping Acts which require a passenger steamer to be surveyed and to have a passenger steamer's certificate are not complied with in the case of any such steamer, the master or owner of the steamer shall, without prejudice to any other remedy or penalty under the Merchant Shipping Acts, be liable on summary conviction to a fine not exceeding ten pounds for every passenger carried from or to any place in the United Kingdom, and the master or owner of any tender by means of which passengers are taken on board or landed from any such steamer shall be liable to a like penalty for every passenger so taken on board or landed.

22. *Overcrowding of passenger steamers.* If a passenger steamer has on board at any place a number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number allowed by the passenger steamer's certificate, the owner or master of the steamer shall, for the purposes of section two hundred and eighty-three of the principal Act, be deemed to have received those passengers on board at that place.



**33. Sale of storage passages.]** The provisions of Part III. of the principal Act, relating to passage brokers, shall apply to any person who at any place in the British Islands sells or lets, or agrees to sell or let, or is in anywise concerned in the sale or letting of, storage passages from any place in Europe not within the Mediterranean Sea.

**34. Frauds in inducing or attempting to induce persons to engage passages.]** The following section shall be substituted for section three hundred and fifty-three of the principal Act:—

"If any person, by any false representation, fraud, or false pretence, induces or attempts to induce any person to emigrate or to engage a storage passage in any ship, he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds, or to imprisonment with or without hard labour for a period not exceeding three months."

PART III.

SEAMEN'S FOOD.

**35. Statutory scale of provisions for crew.]—(1)** The master of every ship for which an agreement with the crew is required under the Merchant Shipping Acts shall, if the agreement is made after the first day of June nineteen hundred and seven, furnish provisions to every member of the crew (who does not furnish his own provisions) in accordance with the scale set out in the First Schedule to this Act, and for the purposes of section one hundred and ninety-nine of the principal Act (which provides for compensation in the case of short or bad provisions) every such member of the crew of the ship shall be deemed to have stipulated by his agreement for provisions in accordance with that scale.

(2) The power of the court to modify or refuse compensation under section one hundred and ninety-nine of the principal Act shall be extended to cases where a member of the crew claiming compensation, although he has not been supplied with the provisions actually required by the scale, has been supplied with provisions containing on the whole the same or a greater amount of wholesome nutriment in their place.

(3) If the master of a ship fails to furnish provisions in accordance with this section, and the court before which the case is tried consider that the failure was due to the neglect or default of the master, the master shall be liable on summary conviction, in addition to paying compensation under section one hundred and ninety-nine of the principal Act, to a fine not exceeding one hundred pounds.

(4) His Majesty may by Order in Council vary or add to the First Schedule to this Act.

(5) This section shall not apply in the case of lascars or natives of India or others not accustomed to a European dietary, with whom an agreement is entered into providing an adequate scale of provisions suited to their needs and uses.

**36. Inspection of provisions and water.]—(1)** An inspecting officer appointed under section two hundred and six of the principal Act may inspect (either on board the ship or before shipment) any provisions or water intended for the use of the crew of any British ship which is going from any port in the United Kingdom and for which an agreement with the crew is required under the Merchant Shipping Acts (other than the provisions provided by the crew themselves), and if he finds that the provisions or water are in any respect deficient in quality, the ship shall be detained until the defects are remedied to his satisfaction:

Provided that any inspection of provisions or water under this section shall be made before shipment whenever practicable, and, if the master, owner, or agent of a ship gives notice to the inspecting officer that any provisions or water for the ship are ready for inspection, the inspecting officer shall not have power to inspect any such provisions or water under this section, if they are at a convenient place for inspection, except within forty-eight hours after the notice is given, without prejudice to the power of the inspecting officer to inspect any provisions or water not specified in the notice or without unnecessarily delaying the ship to proceed on board the ship in order to satisfy himself that there has been no evasion of the requirements of this section by the substitution of other provisions or water for those which have been inspected on shore or specified in a notice as being the provisions or water for the ship, or otherwise.

(2) Where any provisions or water are found deficient in quality under this section, the master of the ship shall be liable on summary conviction to a fine not exceeding a hundred pounds, unless the court before which the case is tried think that the finding of the inspecting officer was not justified; but if the master of the ship shows to the satisfaction of the court that the responsibility for the defects in the provisions or water rests either with the owner of the ship, or any agent of the owner of the ship, or with the person who has supplied the provisions or water, that agent, owner, or person shall be liable to conviction for the offence instead of the master, and the master shall be exempt.

(3) The master of the ship and any other person having charge of any provisions or water liable to inspection under this section shall give the inspecting officer every reasonable facility for the purpose of his inspection under this section, and, if he refuses or fails to do so, shall be liable for each offence on summary conviction to a fine not exceeding ten pounds.

**37. Certificated cooks for foreign-going ships.]—(1)** After the thirtieth day of June nineteen hundred and eight, every British foreign-going ship of a thousand tons and upwards gross tonnage, going to sea from any place in the British Islands or on the continent of Europe between the River Elbe and Brest inclusive, shall be provided with and carry a duly certificated cook who is able to prove one month's service at sea in some capacity.

(2) A cook shall not be deemed to be duly certificated within the meaning of this section unless he is the holder of a certificate of competency in cooking granted by the Board of Trade or by some school of cookery or other institution approved for the purpose by that Board, or is the holder of certificates of discharge showing at least two years' service as cook previously to the said thirtieth day of June nineteen hundred and eight.

(3) The cook shall be rated in the ship's articles as ship's cook, or in the case of ships of not more than two thousand tons gross tonnage, or ships in which the crew, or the majority of the crew, provide their own provisions, either as ship's cook or as cook and steward.

(4) In the case of an emigrant ship, the ship's cook shall be in addition to the cook required by section three hundred and four of the principal Act.

(5) If the requirements of this section are not complied with in the case of any ship, the master or owner of the ship shall, if there is no sufficient reason for the failure to comply with the requirements, for each offence be liable on summary conviction to a fine not exceeding twenty-five pounds.

PART IV.

PROVISIONS AS TO RELIEF AND REPATRIATION OF DISTRESSED SEAMEN, AND SEAMEN LEFT BEHIND ABROAD.

**38. Dealing with wages and effects of a seaman who is left behind.]—(1)** If a seaman belonging to any British ship is left behind out of the British Islands, the master of the ship shall subject to the provisions of this section:—

(a) as soon as may be, enter in the official log-book a statement of the effects left on board by the seaman and of the amount due to the seaman on account of wages at the time when he was left behind; and

(b) on the termination of the voyage during which the seaman was left behind, furnish to the proper officer within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, accounts in a form approved by the Board of Trade, one (in this section referred to as the delivery account) of the effects and wages, and the other (in this section referred to as the reimbursement account) of any expenses caused to the master or owner of the ship by the absence of the seaman in cases where the absence is due to desertion, neglect to join his ship, or any other conduct constituting an offence under section two hundred and twenty-one of the principal Act. The master shall, if required by the proper officer, furnish such vouchers as may be reasonably required to verify the accounts.

(2) The master of the ship shall deliver to the proper officer the effects of the seaman as shown in the delivery account, and subject to any deductions allowed under this section, the amount due on account of wages as shown in that account, and the officer shall give to the master a receipt, in a form approved by the Board of Trade, for any effects or amounts so delivered.

(3) The master of the ship shall be entitled to be reimbursed out of the wages or effects any sums shown in the reimbursement account which appear to the proper officer or, in case of an appeal under this section, to a court of summary jurisdiction to be properly chargeable, and for that purpose the officer, or, if necessary, in the case of an appeal, the Board of Trade, shall allow those sums to be deducted from the amount due on account of wages shown in the delivery account, and, so far as that amount is not sufficient, to be repaid to the master out of the effects.

The proper officer, before allowing any sums to be deducted or repaid under this provision, may require such evidence as he thinks fit as to the sums being properly chargeable to be given by the master of the ship, either by statutory declaration or otherwise.

Where the master of a ship whose voyage terminates in the United Kingdom is aggrieved by the decision of the proper officer as to the sums to be allowed as properly chargeable on his reimbursement account, and the amount in dispute exceeds ten pounds, he may appeal from the decision of the proper officer to a court of summary jurisdiction.

(4) Where during the voyage of a ship two or more seamen have been left behind, the delivery and reimbursement accounts furnished as respects each seaman may at the option of the master of the ship be dealt with, as between him and the proper officer, collectively instead of individually, and in that case the master of the ship shall be entitled to be reimbursed out of the total amount of the wages and effects of the seamen left behind the total of the amounts allowed under this section as properly chargeable on the reimbursement accounts, and shall be required to deliver to the proper officer on account of wages only the sum by which the total of the amounts shown on the delivery accounts to be due on account of wages exceeds the total of the amounts allowed as properly chargeable on the reimbursement accounts.

(5) The proper officer shall (subject to any repayment made under this section) remit the effects, and any amount received by him on account of wages under this section, at such time and in such manner as the Board of Trade require, and shall render such accounts in respect thereof as the Board direct.

(6) In this section the expression "effects" includes the proceeds of any sale of the effects if these effects are sold under this section, and the effects shall be sold by the proper officer in such manner as he thinks fit when they are delivered to him, unless the Board of Trade direct to the contrary, and, if not so sold, shall be sold by the Board as and when they think fit unless they are delivered to the seamen.

(7) The master shall be under no liability for any loss of effects or for any damage to the effects if he proves to the proper officer that the loss or damage occurred without his neglect or privity after the seaman left the ship.

(8) The Board of Trade shall not be under any liability with respect to anything done under this section, except that, if after the wages or effects of a seaman have been dealt with under this section, any legal proceedings are taken in respect of those wages or effects, or involving the forfeiture of those wages or effects, or of any sum out of the wages, by the seaman against the master or owner of the ship, or by the master or owner of the ship against the seaman, the Board shall, if notice is given to them of the proceedings, and a reasonable opportunity afforded to them of appearing, comply with any order of the court made as respects the wages or effects, so far as they can do so out of the wages and effects remitted to them in respect of the voyage of the ship, and, so far as those wages and effects are not required for reimbursing any expenses incurred by or on behalf of the Crown, or incurred by the Government of a foreign country and repaid to that Government by

or on behalf of the Crown, as expenses of a distressed seaman on behalf of the seaman.

The Board shall be entitled to appear and be heard in any such proceedings by any of their officers, and for the purpose of this section notice to any superintendent shall be deemed to be notice to the Board.

The Board may, if and so far as they think fit, meet any claim made by a seaman against the master or owner of the ship in respect of any wages or effects dealt with under this section, although legal proceedings are not actually taken in respect thereof: Provided that they have given notice to the master or owner of the ship, and the master or owner has not given written notice of objection within ten days of the notice being given.

For the purposes of this sub-section, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made, or who claims reimbursement of expenses on behalf of any union or parish under section one hundred and eighty-two of the principal Act, shall be treated as proceedings taken or a claim made by the seaman.

(9) Any sums remitted under this section or arising from the sale of effects under this section shall be paid into the Exchequer, and any sums payable by the Board of Trade under this section shall be paid out of moneys provided by Parliament.

(10) If the master of a ship fails without reasonable cause to comply with this section, he shall (without prejudice to any other liability) for each offence be liable on summary conviction to a fine not exceeding twenty pounds, and, if he delivers a false account or makes a false statement or representation for the purposes of this section, he shall in respect of each offence be guilty of a misdemeanour.

(11) The proper officer for the purpose of this section shall be—

- (i) at a port in the United Kingdom, a superintendent;
- (ii) at a port in a British possession, a superintendent, or, in the absence of any such superintendent, the chief officer of customs at or near the port;
- (iii) at a port elsewhere, the consular officer at the port.

(12) This section shall not apply in the case of an absent seaman—

- (a) Where the master of the ship satisfies the proper officer that none of the effects of the seaman have to his knowledge been left on board the ship, and that he has paid all wages due to the seaman; or
- (b) where the amount of wages earned by the seaman (after taking into account any deductions made in respect of allotments or advances for which provision is made by the agreement with the crew) appears from the agreement to be less than five pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
- (c) where the master of the ship satisfies the proper officer that the net amount due to the seaman on account of wages (after taking into account any deductions lawfully made in respect of allotments, advances, or otherwise) is less than three pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
- (d) where the question of the forfeiture of the wages and effects of the seaman has been dealt with in legal proceedings lawfully instituted before the termination of the voyage, or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

**29. Property of seaman dying on a ship the voyage of which does not terminate in the United Kingdom.**—[The provisions of Part II. of the principal Act, relating to the property of deceased seamen, shall be extended so as to apply to seamen belonging to a British ship registered in the United Kingdom, the voyage of which is to terminate out of the United Kingdom, and in that case the British consular officer, at the port at which the voyage terminates, or, if the port is in a British possession,

the officer of customs there, shall exercise the same powers as he may exercise under those provisions when a ship the voyage of which is to terminate in the United Kingdom touches and remains for forty-eight hours at a port elsewhere than in the United Kingdom, and those provisions shall apply accordingly.]

**30. Sanction required for discharge of seamen out of the United Kingdom.**—(1) The master of a British ship shall not discharge a seaman at any place out of the United Kingdom (except at a port in the country in which he was shipped), unless he previously obtains, indorsed on the agreement with the crew, the sanction of the proper authority as defined for the purpose in this Part of this Act, but that sanction shall not be refused where the seaman is discharged on the termination of his service.

(2) The authority to whom an application is made for sanction under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman is to be discharged at a place out of the United Kingdom, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the sanction as he thinks just, but such sanction shall not be unreasonably withheld.

(3) If the master of a ship fails to comply with this section, he shall, in respect of each offence, be guilty of a misdemeanour, and in any legal proceeding for the offence it shall lie on the master to prove that the sanction was obtained or could not be obtained or was unreasonably withheld.

**31. Certificate of discharge abroad.**—[Where the master of a British ship discharges a seaman at any place out of the United Kingdom, he shall give to that seaman a certificate of discharge in a form approved by the Board of Trade, and, in the case of any certificated officer whose certificate he has retained, shall return that certificate to him.]

**32. Repatriation of seamen on termination of service at foreign port.**—(1) Where the service of a seaman belonging to a British ship terminates at a port out of His Majesty's dominions otherwise than by the consent of the seaman to be discharged during the currency of the agreement, the master of the ship shall, besides giving the certificate of discharge required under this part of this Act, and besides paying the wages to which the seaman is entitled, make adequate provision in accordance with this Act for his maintenance and for his return to a proper return port, and the proper authority as defined for the purpose in this part of this Act shall endorse upon the agreement with the crew of the ship which the seaman is leaving the particulars of any provision so made.

(2) If the master fails, without reasonable cause, to comply with this section, the expenses of maintenance and of the journey to the proper return port—

- (a) if defrayed by the seaman, shall be recoverable as wages due to him; and
- (b) if defrayed by the proper authority or by any other person, shall (unless the seaman has been guilty of barratry) be a charge upon the ship to which the seaman belonged, and may also be recovered against the person who is the owner of the ship for the time being, or, where the ship has been lost, against the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either against the owner for the time being or against the person who was the owner of the ship at the time of the transfer, at the suit of the proper authority or other person defraying the expenses, or, in case they have been allowed to the authority or person out of public money, as a debt to the Crown, either by ordinary process of law or in the court and in the manner in which wages may be recovered by seamen.

(3) This section shall not apply in the case of a foreign seaman who has been shipped at a port out of the United Kingdom and discharged at a port out of the United Kingdom.

**33. Discharge, &c., of seamen on change of ownership of ship at a foreign port.**—(1)

Where a British ship is transferred or disposed of at any port out of His Majesty's dominions, any seaman belonging to that ship shall be discharged unless the seaman consents in writing in the presence of the proper authority as defined for the purpose of this part of this Act to complete the voyage of the ship if continued.

(2) Where a seaman is so discharged the provisions of this part of this Act as to the certificate of discharge, and the return of the seaman to a proper return port, shall apply as if the service of the seaman had terminated otherwise than by the consent of the seaman to be discharged during the currency of the agreement and shall apply to foreign seamen whether they have been shipped at a port in the United Kingdom or not.

**34. Expenses of medical attendance in case of injury or illness.**—(1) If the master of, or a seaman belonging to, a ship receives any hurt or injury in the service of the ship, or suffers from any illness (not being venereal disease, or an illness due to his own wilful act or default or to his own misbehaviour), the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master or seaman until he is cured, or dies, or is returned to a proper return port, and of his conveyance to the port, and in the case of death the expense (if any) of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages.

(2) If the master or a seaman is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.

(3) The expense of all medicines, surgical and medical advice, and attendance, given to a master or seaman whilst on board his ship shall be defrayed in like manner.

(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman who dies whilst on service, shall, if duly proved, be deducted from the wages of the seaman.

**35. Recovery of expenses from owner.**—(1) If any of the expenses attendant on the illness, hurt, or injury of a seaman, which are to be paid under the Merchant Shipping Acts by the master or owner, are paid by any authority on behalf of the Crown, or if any other expenses in respect of the illness, hurt, or injury of any seaman whose wages are not accounted for under the Merchant Shipping Acts to that authority, are so paid, those expenses shall be repaid to the authority by the master or owner of the ship.

(2) If the expenses are not so repaid, the amount thereof shall with costs be a charge upon the ship, and be recoverable from the master or from the owner of the ship for the time being, or where the ship has been lost from the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer as a debt to the Crown, either by ordinary process of law or in the court and in the manner in which wages may be recovered by seamen.

(3) In any proceeding for such recovery, a certificate of the facts, signed by the said authority, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by that authority.

**36. Certificate of proper authority required where a seaman is left behind abroad.**—(1) The master of a British ship shall not leave a seaman behind at any place out of the United Kingdom, ashore or at sea (except where the seaman is discharged in accordance with the



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Merchant Shipping Acts), unless he previously obtains, endorsed on the agreement with the crew, the certificate of the proper authority as defined for the purpose in this part of this Act, stating the cause of the seaman being left behind, whether the cause be unfitness or inability to proceed to sea, desertion, or disappearance or otherwise.

(2) The authority to whom an application is made for a certificate under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman is to be left behind, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the certificate as he thinks just, but the certificate shall not be unreasonably withheld.

(3) If the master of a ship fails to comply with this section, he shall (without prejudice to his liability under any other provision of the Merchant Shipping Acts) be guilty in respect of each offence of a misdemeanour, and in any legal proceeding for the offence it shall lie on the master to prove that the certificate was obtained or could not be obtained without unreasonable delay to the ship or was unreasonably withheld.

**37. Account of wages in case of seaman left behind on ground of unfitness or inability to proceed to sea.**—(1) Where a master of a British ship leaves a seaman behind on shore in any place out of the United Kingdom on the ground of his unfitness or inability to proceed to sea, he shall deliver to the person signing the required certificate of the proper authority a full and true account of the wages due to the seaman, and if that person is a consular officer shall deliver the account in duplicate.

(2) If a master fails without reasonable cause to deliver the account, he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds, and, if he knowingly delivers a false account, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds, in addition in each case to the payment of the wages.

**38. Payment of wages of seaman left behind on ground of unfitness or inability to proceed to sea.**—(1) The master shall pay the amount of wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea, if he is left in a British possession to the seaman himself, and if he is left elsewhere to the British consular officer.

(2) Where payment is made to a British consular officer, that officer shall retain one duplicate of the account delivered to him, and, if satisfied with the account, endorse on the other duplicate a receipt for the payment, and return it to the master, and the master shall deliver the duplicate within forty-eight hours of his return to his port of destination, if that port is in the United Kingdom, to the superintendent at that port, and, if that port is not in the United Kingdom, to the proper authority as defined for the purpose of this part of this Act.

(3) The payment shall be made, whenever it is practicable, in money, and, when not so practicable, by bills drawn on the owner of the ship, but if payment is made by bill—

(a) the person signing the required certificate of the proper authority shall certify by endorsement on the bill that the bill is drawn for seamen's wages, and shall also endorse on the agreement with the crew the amount for which the bill is drawn, and such further particulars as the Board of Trade require;

(b) if the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or endorsee thereof; and it shall not be necessary in any proceeding against the owner upon the bill to prove that the master had authority to draw it;

(c) a bill purporting to be drawn and endorsed under this section shall, if produced out of the custody of the Board of Trade or of the Registrar-General of Shipping and Seamen, or of any superintendent, be admissible in evidence; and any endorsement on any such bill pur-

porting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the endorsement.

(4) If a master fails, without reasonable cause, to make such payment of wages as provided by this section, he shall for each offence be liable on summary conviction, in addition to the payment of the wages, to a fine not exceeding ten pounds.

**39. Application by British consular officer of payments on account of wages of seamen left behind.** Where the amount of wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea is so paid to a British consular officer, that officer shall deal with the sum so paid to him in the following manner, namely:—

(1) If the seaman subsequently obtains employment at or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman under the Merchant Shipping Acts, except such as the owner or master is by the Merchant Shipping Acts required to defray, and shall pay the remainder to the seaman, and deliver to him an account of the sums so received and expended on his behalf;

(2) If the seaman dies before his ship quits the port, he shall deal with the sum as part of the property of a deceased seaman; and

(3) If the seaman is sent to a proper return port at the public expense under the Merchant Shipping Acts, he shall account for the sum to the Board of Trade; and the sum, after deducting any expenses duly incurred in respect of the seaman, except such expenses as the master or owner of the ship is required by the Merchant Shipping Acts to pay, shall be dealt with as wages of the seaman.

**40. Regulations as to relief and maintenance of distressed seamen.** The Board of Trade shall make regulations with respect to the relief, maintenance, and return to a proper return port of shipwrecked seamen and of seamen found otherwise in distress in any place out of the United Kingdom, and may, by those regulations (in this Act referred to as the distressed seamen regulations), make such conditions as they think fit with regard to that relief, maintenance, and sending to a proper return port, and a seaman shall not have any right to be relieved, maintained, or sent to a proper return port, except in the cases and to the extent and on the conditions provided by those regulations.

**41. Provisions for relief and maintenance of distressed seamen.**—(1) Where either—

(a) any seamen, whether subjects of His Majesty or not, are found in any place out of the United Kingdom, and have been shipwrecked from any British ship or any of His Majesty's ships, or by reason of having been discharged or left behind from any such ship in any place out of the United Kingdom, are in distress in that place, or

(b) any seamen, being subjects of His Majesty, who have been engaged by any person acting either as principal or agent to serve in a ship belonging to the Government or to a subject or citizen of a foreign country, are in distress in any place out of the United Kingdom,

the proper authority as defined for the purpose in this part of this Act may, and, if not a merchant, shall, in accordance with and on the conditions prescribed by the distressed seamen regulations, provide in accordance with this Act for the return of those seamen (who are in this Act included in the term distressed seamen) to a proper return port, and also provide for their necessary clothing and their maintenance until their departure for such a port, and, in addition, in the case of shipwrecked seamen for the repayment of any expenses incurred in

their conveyance to port after their shipwreck, and their maintenance while being so conveyed.

(2) The authority shall be paid in respect of the expenses incurred under this section on behalf of distressed seamen such sums as the Board of Trade may allow, and those sums shall, on the production of the bills of disbursements, with the proper vouchers, be paid as provided by this part of this Act.

**42. Recovery of expenses of relief of distressed seamen.**—(1) Where any expenses (other than excepted expenses as defined by this section) are incurred by or on behalf of the Crown, or are incurred by the government of a foreign country, and repaid to that government by or on behalf of the Crown, on account of a distressed seaman, either for his maintenance, necessary clothing, conveyance to a proper return port, or in case of death for his burial, or otherwise in accordance with this Act, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which the distressed seaman belonged, and shall be a debt to the Crown from the master of the ship, or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship be a foreign ship, from the person, whether principal or agent, who engaged the seaman for service in the ship.

(2) The debt, in addition to any fines which may have been incurred, may be recovered by the Board of Trade, on behalf of the Crown, either by ordinary process of law or in the court and manner in which wages may be recovered by seamen.

(3) In any proceeding for such recovery the production of the account (if any) of the expenses furnished in accordance with this Act or the distressed seamen regulations, and proof of payment of the expenses by or on behalf of the Board of Trade, shall be prima facie evidence that the expenses were incurred or repaid under this Act by or on behalf of the Crown.

(4) For the purpose of this section, excepted expenses are expenses incurred in cases where the certificate of the proper authority obtained on leaving a seaman behind states, or the Board of Trade are otherwise satisfied, that the cause of the seaman being left behind is desertion, or disappearance, or imprisonment for misconduct, or discharge from his ship by a naval court on the ground of misconduct, and expenses incurred on account of the return to a proper return port of a distressed seaman who has been discharged at the port at which he was shipped, or at some neighbouring port.

**43. Penalty for forcing seamen on shore.** A person belonging to a British ship shall not wrongfully force a seaman on shore and leave him behind or otherwise cause a seaman to be wrongfully left behind at any place, either on shore or at sea, in or out of His Majesty's dominions, and if he does so he shall in respect of each offence be guilty of a misdemeanour.

**44. Deduction from wages and payment to superintendents, &c., of fines.**—(1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted as follows (that is to say):—

(a) if the offender is discharged in the United Kingdom, and the offence, and the entry in the log book required by the Merchant Shipping Acts in respect thereof, are proved to the satisfaction, in the case of a foreign-going ship of the superintendent before whom the offender is discharged, and in the case of a home-trade ship of the superintendent at or nearest the port at which the crew are discharged, the master or owner shall deduct the fine from the wages of the offender;

(b) if the offender enters His Majesty's naval service or is discharged abroad,



and the offence and the entry as aforesaid are proved to the satisfaction of the officer in command of the ship he so enters, or of the proper authority by whose sanction he is discharged, as the case may be, the fine shall be deducted as aforesaid and an entry made in the official log book of the ship and signed by the officer or authority to whose satisfaction the offence is proved.

(2) Every fine so deducted shall be paid—

(a) if the offender is discharged in the United Kingdom, to the superintendent;

(b) if the offender enters His Majesty's naval service, on the return of the ship to its port of destination, if that port is in the United Kingdom, to the superintendent before whom the crew is discharged, or in the case of a home-trade ship to the superintendent at or nearest to the port at which the crew is discharged, and, if the port of destination is not in the United Kingdom, to the proper authority as defined for the purpose of this part of this Act;

(c) if the offender is discharged at any place out of the United Kingdom, to the proper authority.

(3) A proper authority shall remit any amounts received by them under this section at such times and in such manner, and render such accounts in respect thereof, as the Board of Trade require.

(4) If a master or owner fails without reasonable cause to pay any fine as required by this section, he shall for each offence be liable on summary conviction to a fine not exceeding six times the amount of the fine not so paid.

(5) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, the seaman, shall not be otherwise punished under the Merchant Shipping Acts.

**45. Proper return port.]** For the purpose of this part of this Act, either the port at which the seaman was shipped or a port in the country to which he belongs, or some other port agreed to by the seaman, in the case of a discharged seaman, at the time of his discharge, shall be deemed to be a proper return port:

Provided that in the case of a seaman belonging to a British possession who has been shipped and discharged out of the United Kingdom the proper officer may treat a port in the United Kingdom as a proper return port.

**46. Mode of providing for return.]**—(1) A seaman may be sent to a proper return port by any reasonable route, either by sea or land, or partly by sea and partly by land.

(2) Provision shall be made for the return of the seaman as to the whole of the route if it is by sea, or as to any part of the route which is by sea, by placing the seaman on board a British ship which is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, British or foreign, or with the money for his passage, and, as to any part of the route which is by land, by paying the expenses of his journey and of his maintenance during the journey, or providing him with means to pay those expenses.

(3) Where the master of a ship is required under this part of this Act to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage, or the expenses of his journey, or of providing the seaman with means to pay his passage or those expenses, deposit with the proper authority such sum as that authority consider sufficient to defray the expenses of the return of the seaman to a proper return port.

(4) The Board of Trade may, by the distressed seamen regulations, make such provision as may be necessary for enabling the proper authority, and in the case of expenses required to be incurred in the United Kingdom any officer named for the purpose by the Board, to defray on behalf of the authority originally making arrangements for the return of a dis-

tressed seaman to a proper return port any expenses on account of that seaman which the authority originally acting in respect of him could defray, and any expenses so incurred shall for the purposes of this part of this Act relating to distressed seamen be deemed to be expenses incurred on behalf of the distressed seaman.

**47. Decision of questions as to return by proper authority.]** If any question arises as to what return port a seaman is to be sent to in any case, or as to the route by which he should be sent, that question shall be decided by the proper authority, and, in deciding any question under this provision, the authority shall have regard both to the convenience of the seaman and to the expense involved, and also, where that is the case, to the fact that a British ship which is in want of men to make up its complement is about to proceed to a proper return port.

**48. Provisions as to taking distressed seamen on ships.]**—(1) Where a distressed seaman is, for the purpose of his return to a proper return port, placed on board a British ship, the authority by whom the seaman is so placed shall endorse on the agreement with the crew of the ship the name of the seaman so placed on board, together with any particulars directed to be endorsed by the distressed seamen regulations.

(2) The master of every British ship shall receive on board his ship, and afford a passage and maintenance to, all distressed seamen whom he is required under this Act to take on board his ship, not exceeding one for every fifty tons burden, and shall during the passage provide every such distressed seaman with a proper berth or sleeping place, effectually protected against sea and weather.

(3) On the production of a certificate, signed by the authority by whose directions any such distressed seaman was received on board, specifying the number and names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master before a justice of the peace, or any officer authorised to administer an oath, stating the number of days during which each distressed seaman has received maintenance, and stating the full complement of his crew and the actual number of seamen employed on board his ship, and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid, in respect to the maintenance and passage of every seaman so conveyed, maintained, and provided for by him, exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the Board of Trade allow.

(4) If any master of a British ship fails without reasonable cause to comply with this section in the case of any distressed seamen, he shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds.

**49. Definitions of "proper authority" and "seamen."]** For the purposes of this part of this Act, unless the context otherwise requires,—

(1) The expression "proper authority" means—

(a) as respects a place out of His Majesty's dominions, the British consular officer, or, if there is no such officer in the place, any two British merchants resident at or near the place, or, if there is only one British merchant so resident, that British merchant; and

(b) as respects a place in a British possession—

(i) in relation to the discharge or leaving behind of seamen, or the payment of fines, a superintendent, or, in the absence of any such superintendent, the chief officer of customs at or near the place; and

(ii) in relation to distressed seamen the governor of the possession, or any person acting under his authority; and

(2) The expression "seamen" includes not only seamen as defined by the principal Act, but also apprentices to the sea service:

(3) The provisions of this part of this Act shall, for the purpose of sections two hundred and sixty to two hundred and sixty-six of the principal Act (which relate to the application of Part II. of that Act), be construed as if they were contained in Part II. of that Act.

## PART V.

### MISCELLANEOUS.

**50. Ships' names.]**—(1) The Board of Trade, in conjunction with the Commissioners of Customs, may make regulations enabling the Board of Trade to refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered British ship or a name so similar as to be calculated to deceive, and may by those regulations require notice to be given in such manner as may be directed by the regulations before the name of the ship is marked on the ship, or before the name of the ship is entered in the register.

(2) If the registry of a ship by the name by which it is proposed to register that ship is refused by the Board of Trade, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed or until the regulations are complied with, as the case may be.

**51. Power to inquire into the title of a registered ship to be registered.]**—(1) Where it appears to the Commissioners of Customs that there is any doubt as to the title of any ship registered as a British ship to be so registered, they may direct the registrar of the port of registry of the ship to require evidence to be given to his satisfaction that the ship is entitled to be registered as a British ship.

(2) If within such time, not less than thirty days, as the Commissioners fix, satisfactory evidence of the title of the ship to be registered is not so given, the ship shall be subject to forfeiture under Part I. of the principal Act.

(3) In the application of this section to a port in a British possession, the Governor of the British possession, and, in the application of this section to foreign ports of registry, the Board of Trade, shall be substituted for the Commissioners of Customs.

**52. Provisions with respect to mortgages of ships sold to foreigners.]**—(1) Sub-section (1) of section twenty-one of the principal Act shall be read as if the following words were inserted at the end of that sub-section, "and the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein."

(2) It is hereby declared that where the registry of a ship is considered as closed under sub-section (1) of section twenty-one of the principal Act as amended by this section, or under sub-section (10) of section forty-four of this Act, on account of a transfer to persons not qualified to be owners of British ships, any unsatisfied registered mortgage (including mortgages made under a certificate of mortgage) may, if the ship comes within the jurisdiction of any court in His Majesty's dominions which has jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court notwithstanding the transfer, without prejudice, in cases where the ship has been sold under a judgment of a court, to the effect that judgment.

**53. Amendment of 57 & 58 Vict. c. 60, s. 4.]** The following sub-section shall be substituted for sub-section (2) of section forty-eight of the principal Act:—

"(2) If default is made in registering a new ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, in addition to a fine not exceeding five pounds for every day during which the offence continues after conviction."

**54. Deduction of spaces used for sea ballast in ascertaining tonnage.]**—(1) For the pur-

pose of enabling spaces used for water ballast to be deducted in ascertaining the register tonnage of a ship, section seventy-nine of the principal Act shall be read as if the words—

"(iv) Any space (other than a double bottom) adapted only for water ballast; and" were added at the end of paragraph (a) of sub-section (1) of that section.

(2) For the purpose of obtaining the benefit of a deduction under this section the owner of any existing ship who claims to be entitled to the deduction may apply to the Board of Trade to have the necessary remeasurements of his ship made, and the Board of Trade, on the payment of such fee, not exceeding in any case one-fifth of the corresponding maximum fee fixed by the Third Schedule to the principal Act, as they may authorise, shall direct those measurements to be made, and the number denoting the register tonnage shall be altered accordingly.

**55. Crew space of foreign ships.]** Sub-section (1) of section eighty-four of the principal Act shall be read as if the following words were added thereto, namely, "and any space shown by the certificate of registry or other national papers of any such ship as deducted from tonnage on account of being occupied by seamen or apprentices, and appropriated to their use, shall be deemed to have been certified under this Act, and to comply with the provisions of this Act which apply to such a space in the case of British ships, unless a surveyor of ships certifies to the Board of Trade that the construction and the equipment of the ship as respects that space do not come up to the standard required under this Act in the case of a British ship, and if any question arises whether the construction and the equipment of the ship so come up to the required standard a surveyor of ships may inspect the ship for purpose of determining whether such a certificate should be given by him or not."

**56. Second mate certificates allowed in small foreign-going sailing ships.]** The following paragraph shall be substituted for paragraph (b) of sub-section (1) of section ninety-two of the principal Act (which relates to the certificates of competency to be held by officers of ships):—

"(b) If the ship is of one hundred tons burden or upwards with at least one officer besides the master holding a certificate not lower than that of—

- (i) mate in the case of a home trade passenger ship;
- (ii) second mate in the case of a foreign-going sailing ship of not more than two hundred tons burden; and
- (iii) only mate in the case of any other foreign-going ship."

**57. Powers of court in case of unreasonable delay in paying masters' wages.]** In any action or other legal proceedings by the master of a ship for the recovery of any sum due to him on account of wages, the court may, if it appears to them that the payment of the sum due has been delayed otherwise than owing to the act or default of the master, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the person liable to make the payment, order that person to pay, in addition to any sum due on account of wages, such sum as they think just as damages in respect of the delay, without prejudice to any claim which may be made by the master on that account.

**58. Title to be rated as A.B.]**—(1) For the purpose of reducing the period of service required as a qualification for the rating of A.B., the period of "three years before the mast," shall be substituted for the period of "four years before the mast," and "two years of that employment" shall be substituted for "three years of that employment," and "two or more years sea service" shall be substituted for "three or more years sea service" in section one hundred and twenty-six of the principal Act.

(2) Any superintendent or other officer before whom a seaman is engaged shall refuse to enter the seaman as A.B. on the agreement with the crew unless the seaman gives such satisfactory proof as is required by section one hundred and

twenty-six of the principal Act of his title to be so rated; and if any seaman, for the purpose of obtaining a rating as A.B., makes any false statement or false representation, he shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds.

**59. Notice of disrating of seaman.]**—(1) Where the master of a ship disrates a seaman he shall forthwith enter or cause to be entered in the official log book a statement of the disrating, and furnish the seaman with a copy of the entry; and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections one hundred and thirty-two and one hundred and thirty-three of the principal Act (which relate to the delivery of the account of wages and the allowance of deductions therefrom).

**60. Power to except claims from release on settlement of wages.]** Notwithstanding anything in section one hundred and thirty-six of the principal Act, a seaman may except from the release signed by him under that section any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release. The release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall sub-section (4) of that section apply to any payment, receipt, or settlement made with respect to any such claim or demand.

**61. Obligation to offer allotment notes.]** In order to give effect to the provisions of section one hundred and forty-one of the principal Act enabling a seaman to require a stipulation for the allotment of his wages by means of an allotment note every superintendent or other officer before whom the seaman is engaged shall, after the seaman has signed the agreement, inquire of the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note, and if the seaman requires such a stipulation shall insert the stipulation in the agreement with the crew, and any such stipulation shall be deemed to have been agreed to by the master.

**62. Time for payment of allotment note.]** A payment under an allotment note shall begin at the expiration of one month from the date of the agreement with the crew and shall be paid at the expiration of every subsequent month after the first month, and shall be paid only in respect of wages earned before the date of payment.

**63. Master to give facilities to seamen for remitting wages.]**—(1) Where the balance of wages due to a seaman is more than ten pounds, and the seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting all or any part of the balance to a savings bank, or to a near relative in whose favour an allotment note may be made, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is in excess of ten pounds, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port, or otherwise than conditionally on the seaman going to sea in the ship.

(2) If the master of a ship fails to comply with the provisions of this section, he shall be liable on summary conviction for each offence to a fine not exceeding five pounds.

**64. Increase of crew space.]**—(1) Sub-section (1) of section two hundred and ten of the principal Act (which provides for the space required for each seaman or apprentice in any place in a British ship occupied by seamen or apprentices and appropriated to their use) shall be construed as if a space of not less than one hundred and twenty cubic feet and of not less than fifteen superficial feet measured on the deck or floor of that place were substituted for a space of not less than seventy-two cubic feet and of not

less than twelve superficial feet measured on the deck or floor of that place.

(2) In estimating the space available for the proper accommodation of seamen and apprentices, there may be taken into account the space occupied by any mess rooms, bath rooms, or working places appropriated exclusively to the use of those seamen and apprentices, so, however, that the space in any place appropriated to the use of seamen or apprentices in which they sleep is not less than seventy-two cubic feet and twelve superficial feet for each seaman or apprentice.

(3) Nothing in this section shall affect—

- (a) any ship registered before the passing of this Act or which was in course of construction on the first day of January nineteen hundred and seven; or
- (b) any ship of not more than three hundred tons burden; or
- (c) any fishing boat within the meaning of Part IV. of the principal Act,

or require any additional space to be given in the case of places occupied solely by lascars and appropriated to their use.

**65. Provisions as to failure to join ship and desertion.]**—(1) Where a seaman who has been lawfully engaged and has received under his agreement an advance note, after negotiating his advance note, wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he shall, on summary conviction, be liable to a fine not exceeding five pounds, or, at the discretion of the court, to imprisonment for not exceeding twenty-one days, but nothing in this section shall take away or limit any remedy by action or by summary procedure before justices which any person would otherwise have in respect of the negotiation of the advance note, or which an owner or master would otherwise have for breach of contract.

(2) Where it is shown to the satisfaction of the superintendent that a seaman lawfully engaged has wilfully or through misconduct failed to join his ship, the superintendent shall report the matter to the Board of Trade, and that Board may direct that any of the seaman's certificates of discharge shall be withheld for such period as they may think fit, and, while a seaman's certificate of discharge is so withheld, the Registrar-General of Shipping and Seamen, and any other person having the custody of the necessary documents, may, notwithstanding anything in the Merchant Shipping Acts, refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

**66. Appeal from decision on investigation as to shipping casualties.]** Where, on any investigation or inquiry under the provisions of Part VI. of the principal Act, the court find that a shipping casualty has been caused or contributed to by the wrongful act or default of any person, and an application for re-hearing has not been made under section four hundred and seventy-five or section four hundred and seventy-eight of the principal Act, or has been refused, the owner of the ship, or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing and is affected by the decision of the court, may appeal from that decision in the same manner and subject to the same conditions in and subject to which a master may appeal under those sections against a decision with respect to the cancelling or suspension of his certificate.

**67. Power of naval court to send a person sentenced to imprisonment home to undergo sentence.]**

—(1) The powers of a naval court under section four hundred and eighty-three of the principal Act (which deals with those powers) shall include a power to send an offender sentenced by the court to imprisonment either to the United Kingdom or to any British possession to which His Majesty by Order in Council has applied this section, as appears to them most convenient for the purpose of being imprisoned, and the court may take the same steps, and for that



purpose shall have the same powers, as respects the orders which may be given to masters of ships as a consular officer has for the purpose of sending an offender for trial under section six hundred and eighty-nine of the principal Act, and sub-sections (2), (4), and (5) of that section shall apply with the necessary modification.

(2) Any master of a ship to whose charge an offender is committed under this section shall, on his ship's arrival in the United Kingdom or in a British possession, as the case may be, give the offender into the custody of some police officer or constable, and the offender shall be dealt with as if he had been convicted and sentenced to imprisonment by a court of competent jurisdiction in the United Kingdom or in the British possession, as the case may be.

(3) His Majesty may by Order in Council apply this section to any British possession the Legislature of which consents to that application.

**68. Appeal from naval courts.]**—(1) Any person aggrieved by an order of a naval court ordering the forfeiture of wages, or by a decision of a naval court of a question as to wages, fines, or forfeitures, may appeal to the High Court in such manner and subject to such conditions and provisions as may be provided by rules of court, and on any such appeal the High Court may confirm, quash, or vary the order or decision appealed against as they think just.

(2) Sub-section (2) of section four hundred and eighty-three of the principal Act shall not have effect with respect to any order of a naval court which is quashed on an appeal under this section, and, where an order of a naval court is varied on appeal, shall apply as if the order as so varied were the order originally made by the naval court.

**69. Calculation of tonnage of steamship for the purpose of limitation of liability.]** For the purpose of the limitation under the Merchant Shipping Acts of the liability of owners of ships, docks, or canals, and of harbour authorities and conservancy authorities, the tonnage of a steamship shall be her registered tonnage, with the addition of any engine-room space deducted for the purpose of ascertaining that tonnage, and the words "registered tonnage with the addition of any engine-room space deducted for the purpose of ascertaining that tonnage" shall accordingly be substituted in paragraph (a) of sub-section (2) of section five hundred and three of the principal Act for "gross tonnage without deduction on account of engine-room."

**70. Liability of shipowners as respects ships launched but not registered.]** The proviso to section one of the Merchant Shipping (Liability of Shipowners) Act, 1898 [61 & 62 Vict. c. 14], shall cease to have effect, but that section shall not be construed so as to extend section five hundred and two of the principal Act to the owners of any ship, or any share therein, after the ship has become a foreign ship.

**71. Liability of charterer.]** Sections five hundred and two to five hundred and nine of the principal Act shall be read so that the word "owner" shall be deemed to include any charterer to whom the ship is demised.

**72. Delivery of wreck to receiver.]** Section five hundred and eighteen of the principal Act shall apply to wreck found or taken possession of outside the limits of the United Kingdom, and brought within the limits of the United Kingdom, as it applies to wreck found or taken possession of within the limits of the United Kingdom.

**73. Alien pilotage certificates.]** After the date of the passing of this Act a pilotage certificate shall not be granted to the master or mate of a ship unless he is a British subject, but nothing in this section shall affect the renewal of a pilotage certificate granted before the first day of June nineteen hundred and six to a master or mate who is not a British subject.

A pilotage certificate includes not only a certificate which may be granted under sections five hundred and ninety-nine and six hundred

of the principal Act, but also the certificate which may be granted under section six hundred and four of that Act.

**74. Provisions as to superintendents, &c.]**—(1) In the United Kingdom, all superintendents, deputies, clerks, and servants in mercantile marine offices shall be appointed and removable by the Board of Trade, and all superintendents, whether appointed before or after the commencement of this Act, shall, in carrying into effect the provisions of the Merchant Shipping Acts, be subject to the control of, and obey directions given by, the Board of Trade, except as respects any matter which, under those Acts or any Order in Council made thereunder, is subject to the control of any other Government Department, and the power of removal by this section conferred on the Board of Trade shall be exercisable by the Board as respects superintendents, deputies, clerks, and servants appointed before the commencement of this Act.

(2) In sub-section (1) of section two hundred and forty-four of the principal Act the words "such of the provisions of this Act as relate to their powers and duties" shall be substituted for the words "this Act."

**75. Substitution of ship surveyor for shipwright surveyor.]**—(1) Any person appointed to be a surveyor of ships under section seven hundred and twenty-four of the principal Act may be appointed either as a ship surveyor or as an engineer surveyor, or as both, and any reference in that section or in any other section of the principal Act to a shipwright surveyor shall be construed as a reference to a ship surveyor.

(2) Any surveyor of ships who before the passing of this Act has been appointed as a shipwright surveyor, or both as a shipwright surveyor and an engineer surveyor, shall be deemed to have been appointed as a ship surveyor, or both as a ship surveyor and an engineer surveyor, as the case may be.

(3) The surveys required to be made under section two hundred and twenty-two of the principal Act by a ship surveyor and by an engineer surveyor may be made by the same person if that person has been appointed both as a ship surveyor and as an engineer surveyor, and that section shall be construed accordingly.

(4) The Board of Trade may, under sub-section (2) of section seven hundred and twenty-four of the principal Act, in addition to appointing a surveyor-general of ships, appoint such other principal officers in connection with the survey of ships and other matters incidental thereto, as the Board may think fit.

**76. Return to be furnished by masters of ships as to passengers.]**—(1) The master of every ship, whether a British or foreign ship, which carries any passenger to a place in the United Kingdom from any place out of the United Kingdom, or from any place in the United Kingdom to any place out of the United Kingdom, shall furnish to such person and in such manner as the Board of Trade direct a return giving the total number of any passengers so carried, distinguishing, if so directed by the Board, the total number of any class of passengers so carried, and giving, if the Board of Trade so direct, such particulars with respect to passengers as may be for the time being required by the Board.

(2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) If the master of a ship fails to make a return as required by this section, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or gives any false information for the purpose, the master or passenger shall be liable for each offence on summary conviction to a fine not exceeding twenty pounds.

**77. Return as to cattlemen brought to the United Kingdom.]**—(1) The master of every ship which carries any cattlemen to any port in the United Kingdom from any port out of the United Kingdom shall furnish to such person

and in such manner as the Secretary of State directs a return giving such particulars with respect to any cattlemen so carried as may be required for the time being by order of the Secretary of State, and every such cattlemen shall furnish the master of the ship with any information required by him for the purpose of the return.

(2) If the master of a ship fails to make the return required by this section, or makes a false return, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and if any cattlemen refuses to give information required by the master for the purpose of the return under this section, or gives any false information for the purpose, he shall be liable on summary conviction to imprisonment with hard labour for a term not exceeding three months.

(3) For the purpose of this section the expression "cattlemen" means any person who is engaged or employed to attend during the voyage of the ship on any cattle carried therein as cargo.

**78. Dispensing powers of the Board of Trade.]**—(1) The Board of Trade may, if they think fit, and upon such conditions (if any) as they think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of the Merchant Shipping Acts, or dispense with the observance of any such requirement in the case of any ship, if they are satisfied that that requirement has been substantially complied with in the case of that ship, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

(2) The Board of Trade shall annually lay before both Houses of Parliament a special report stating the cases in which they have exercised their powers under this section during the preceding year, and the grounds upon which they have acted in each case.

**79. Power to appoint advisory committees.]**—(1) The Board of Trade may, if they think fit, appoint committees for the purpose of advising them when considering the making or alteration of any rules, regulations, or scales for the purpose of the Merchant Shipping Acts, consisting of such persons as they may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There shall be paid to the members of any such committee, out of moneys provided by Parliament, such travelling and other allowances as the Board of Trade fix with the consent of the Treasury.

(3) Committees may be appointed under this section to advise the Board of Trade specially as regards any special rules, regulations, or scales or generally as regards any class or classes of rules, regulations, or scales which the Board may assign to them.

**80. Power to register Government ships under the Merchant Shipping Acts.]**—(1) His Majesty may by Order in Council make regulations with respect to the manner in which Government ships may be registered as British ships for the purpose of the Merchant Shipping Acts, and those Acts, subject to any exceptions and modifications which may be made by Order in Council, either generally or as respects any special class of Government ships, shall apply to Government ships registered in accordance with those regulations as if they were registered in manner provided by those Acts.

(2) Nothing in this Act shall affect the powers of the Legislature of any British possession to regulate any Government ships under the control of the Government of that possession.

(3) In this section the expression "Government ships" means ships not forming part of His Majesty's Navy which belong to His Majesty, or are held by any person on behalf of or for the benefit of the Crown, and for that reason cannot be registered under the principal Act.

**81. Applications of certain sections of**



*principal Act to Scotland.*—(1) Section four hundred and thirteen to four hundred and sixteen of the principal Act (which relate to certificates of skippers and second hands on trawlers) shall apply to fishing boats being trawlers of twenty-five tons tonnage and upwards going to sea from any port of Scotland in like manner as they apply to such fishing boats going to sea from any port of England or Ireland, except that in section four hundred and fifteen the date of the commencement of this Act shall be substituted for the dates mentioned in that section, and Part IV. of the principal Act shall be construed accordingly.

(2) The sections aforesaid as hereby applied to Scotland shall, notwithstanding anything contained in Part IV. of the principal Act, be deemed to be portions or provisions of Part IV. referred to in section three hundred and sixty-nine of the principal Act (confering power on the Board of Trade to make exempting or extending orders), and that section (with the substitution of the Edinburgh Gazette for the London Gazette) and Part IV. shall be construed accordingly. Provided that any order to be published in the Edinburgh Gazette under that section shall be subject to the consent of the Secretary for Scotland.

**82. Amendment of procedure in Scotland.** The principal Act in its application to Scotland is amended as follows:—

- (1) Sub-section one of section two hundred and thirty-seven of the principal Act is

hereby amended by the addition thereto of the following words: "And such person found on board without consent as aforesaid may be taken before any sheriff or justice of the peace without warrant, and such sheriff or justice may summarily hear the case, and, on proof of the offence, convict such offender as aforesaid."

- (2) The provisions of section six hundred and eighty of the principal Act shall apply to Scotland.

- (3) Section seven hundred and two of the principal Act shall be amended by the deletion of the words "by criminal libel at the instance of the procurator fiscal of the county before the sheriff," and every offence referred to in section seven hundred and two of the principal Act may be prosecuted by indictment.

- (4) The words "or misdemeanors" in section seven hundred and three of the principal Act are hereby repealed.

**83. Amendment of section 744 of 57 & 58 Vict. c. 60, as respects Scottish whalers.** Section seven hundred and forty-four of the principal Act (which relates to the application of that Act to certain fishing vessels) shall not apply to ships engaged in the whale fisheries off the coast of Scotland and registered at ports in Scotland, and accordingly there shall be added at the end of that section the words "and of ships engaged in the whale fisheries off the coast

of Scotland and registered at ports in Scotland."

#### PART VI.

##### SUPPLEMENTAL.

**84. Construction of references to Merchant Shipping Acts.**—(1) In this Act the expression "principal Act" means the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), and the expression "Merchant Shipping Acts" means the Merchant Shipping Acts, 1894 to 1900, and this Act.

(2) Any reference in this Act to any provision of the Merchant Shipping Acts, 1894 to 1900, which has been amended by any subsequent Act or is amended by this Act, shall be construed as a reference to the provision as so amended.

**85. Repeal.** The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**86. Short title and commencement.**—(1) This Act may be cited as the Merchant Shipping Act, 1906, and shall be construed as one with the principal Act, and the Merchant Shipping Acts, 1894 to 1900, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1906.

(2) This Act shall, save as otherwise expressly provided, come into operation on the first day of June nineteen hundred and seven.

#### SCHEDULES.

##### FIRST SCHEDULE.

###### SCALE OF PROVISIONS.

	Water.	Soft Bread.	Biscuit.	Salt Beef.	Salt Pork.	Preserved Meat.	Fish.	Potatoes.	Dried or Compressed Vegetables.	Pean, Split.	Pean, Green.	Calavances or Haricot Beans.	Flour.	Rice.	Oatmeal.	Tea.	Coffee.	Sugar.	Milk, Condensed.	Butter.	Marmalade or Jam.	Syrup or Molasses.	Suet.	Pickles.	Dried Fruit.	Fine Salt.	Mustard.	Pepper.	Curry Powder.	Onions.	
	qtr.	lbs.	lbs.	lbs.	lbs.	lbs.	lb.	lbs.	lb.	pt.	pt.	pt.	lbs.	lb.	oz.	oz.	oz.	lbs.	lb.	lb.	lb.	lb.	oz.	pt.	oz.	oz.	oz.	oz.	oz.	oz.	
Sunday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Monday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Tuesday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Wednesday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Thursday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Friday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Saturday	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	
Weekly	28	3	4	3	2	2	2	6	1	1	1	1	2	1	8	1	4	1	1	1	1	1	1	1	1	1	1	1	1	1	1

#### CONDITIONS AND EXCEPTIONS IN APPLYING SCALE.

1. The issue of provisions for which a total weekly, and no daily, amount is given in the above scale shall be reasonably distributed throughout the week.

2. The issue of soft bread under the scale shall not be required:—

- (a) in a ship of less than one thousand tons gross registered tonnage; or  
(b) if rough weather renders the making of the bread impracticable; or  
(c) in any ship until the date of the first agreement with the crew entered into after the first day of January nineteen hundred and eight;

but where soft bread is not issued, an equivalent amount of biscuit shall be issued instead.

3. An equal quantity of fish, up to an amount not exceeding three-quarters of a pound in any one week may be substituted for preserved meat under the above scale.

The fish issued, whether under the scale or as a substitute, must be fresh fish, dried fish, or canned salmon or canned herrings.

4. Within the tropics, a pound and a-half of preserved meat or three pounds of fresh meat may be substituted for two pounds of salt pork.

5. Fresh potatoes must be issued for at least the first eight weeks of the voyage in the case of every ship leaving the port within the home trade limits at any time between the last day of September

and the first day of May, and at any other time when they can be procured at a reasonable cost.

When fresh potatoes are not so issued, an equal amount of yams, or vegetables preserved in tins, or an equivalent amount of dried or compressed potatoes or dried or compressed vegetables in the proportion of one pound to six pounds of fresh potatoes, must be issued in their place.

6. Fresh vegetables, or vegetables preserved in tins, may at any time be substituted for dried or compressed vegetables in the proportion of half a pound of fresh vegetables, or vegetables preserved in tins, to one ounce of dried or compressed vegetables.

7. A mixture of coffee and chicory containing not less than seventy-five per cent. of coffee may at any time be substituted for coffee in the proportion of five ounces of the mixture to four ounces of coffee.

8. The dried fruit issued under the above scale must be raisins, sultanas, currants, figs, or prunes.

9. The onions to be issued under the above scale must be fresh onions when in season; and, when fresh onions are not in season, an equal amount of onions or vegetables preserved in tins, or an equivalent amount of dried or compressed onions or vegetables in the proportion of one ounce to half a pound of fresh onions must be issued.

10. In port—

- (a) soft bread shall be issued in lieu of biscuit; and

(b) when procurable at a reasonable cost, a pound and a half of fresh meat and half a pound of fresh vegetables shall be issued daily, and, when fresh meat and fresh vegetables are not so issued, salt and preserved meat and dried or compressed vegetables need not be issued.

11. The stokehold hands are to receive sufficient oatmeal and one quart of water extra daily while under steam.

SUBSTITUTES AND EQUIVALENTS—NOT TO BE USED WITHOUT REASONABLE CAUSE.

Fresh meat	1 1/2 lb.	
Salt meat	1 "	
Preserved meat	1 "	To be considered equal.
Coffee	1 oz.	
Cocoa	1 "	
Tea	1 "	To be considered equal.
Flour	1 lb.	
Biscuit	1 "	
Rice	1 "	To be considered equal.
Split peas	1 pt.	
Flour	1 lb.	
Calavances or haricot beans	1 pt.	To be considered equal when issued with meat rations.
Rice	1 lb.	
Marmalade	1 lb.	
Jam	1 "	To be considered equal.
Butter	1 "	
Mustard	1 "	
Curry powder	1 "	To be considered equal.

SECOND SCHEDULE.  
ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	Sub-section (2) of section forty-eight, paragraph (b) of sub-section (1) of section ninety-two, section one hundred and forty-four. Sections one hundred and eighty-six to one hundred and ninety-three; sections two hundred and seven, two hundred and eight, and two hundred and thirty-five. In sub-section (2) of section two hundred and forty-six the words "and appoint and remove the superintendents, deputies, clerks, and servants," and in paragraph (a) of that sub-section the words "the number of persons to be so appointed and the amount of their salaries and wages, and" and the word "other"; and paragraph (c) of that sub-section; and in paragraph (d) of that sub-section the words "and all persons and offices so appointed shall be subject to the immediate control of the Board of Trade and not of the local marine board of the port"; and in sub-section (3) of the same section the words "and appoint and remove all the requisite superintendents, deputies, clerks, and servants." In section two hundred and sixty-seven the words "and every foreign steamship carrying passengers between places in the United Kingdom." Paragraph (3) of section two hundred and sixty-eight. Section two hundred and ninety-one. Section two hundred and ninety-nine. Paragraph (i) of section three hundred and twenty-eight; section three hundred and

Session and Chapter.	Short Title.	Extent of Repeal.
61 & 62 Vict. c. 14.	The Merchant Shipping (Liability of Shipowners) Act, 1898.	fifty-three; in sub-section (1) of section four hundred and thirteen the words "of England or Ireland." Section four hundred and fifty-one as from the passing of this Act. In section four hundred and sixty-two, the words "has taken on board all or any part of her cargo," and the word "and" where it next occurs, and the words "whilst at that port"; in paragraph (a) of sub-section (2) of section five hundred and three the words "gross tonnage without deduction on account of engine room." The Tenth, Eleventh, Twelfth, Thirteenth, and Fourteenth Schedules as from the dates on which regulations, scales, conditions, and forms are prescribed by the Board of Trade in substitution for those Schedules respectively. Section one, from "provided," to the end of the section.
61 & 62 Vict. c. 44.	The Merchant Shipping (Mercantile Marine Fund) Act, 1898.	Section four.

## CHAPTER 49.

[Census of Production Act, 1906.]

An Act to provide for taking a Census of Production.  
[21st December 1906.]

Be it enacted, &amp;c.:

1. *Periodical census.* A census of production shall be taken in the year one thousand nine hundred and eight, and subsequently at such intervals as may be determined by an order made by the Board of Trade as soon as practicable after the taking of the first census and laid before Parliament.

2. *Central authority for and expenses of census.*—

(1) The Board of Trade shall superintend the taking of the census, and shall, subject to the provisions of this Act, prepare and issue such forms and instructions as they deem necessary for the taking of the census.

(2) The expenses incurred, with the approval of the Treasury, for the purpose of the census, shall be paid out of money provided by Parliament.

3. *Preparing and filling up of schedules.*—(1) Forms shall be prepared for the purpose of being filled up by the persons specified in the schedule to this Act with such of the following particulars in respect of the calendar year next preceding the date of the census, or any prescribed part of that

year, as may be prescribed; that is to say, the nature of the trade or business, and particulars relating to the output, the number of days on which work was carried on, the number of persons employed, and the power used or generated, and relating to such other matters of a like nature, except the amount of wages, as may be found to be necessary for the purpose of enabling the quantity and value of production to be ascertained: Provided that—

(a) If in any case it is found inconvenient to furnish such particulars as respects the calendar year, the Board of Trade may allow the particulars to be furnished as respects some other period of twelve months or prescribed part thereof;

(b) In order to enable the Board of Trade to compile, as far as practicable, statistics of the net value of production without duplication, the prescribed particulars as to output may include particulars as to the aggregate estimated value of the materials used and the total amount paid to contractors for work given out to them; and

(c) Particulars as to the quantity of output shall not be required except in the case of articles the quantity of which is on their importation into or exportation from the United Kingdom required by the official import or export list to be entered, nor shall such particulars be required in greater detail than in those lists.

(2) It shall be the duty of every person specified in the schedule to this Act, upon receiving notice in writing from the Board of Trade to that effect, to fill up, and sign, and to deliver in such manner as may be prescribed, on or before the prescribed date, such date not to be less than three months after the issue of the forms, the form appropriate to his trade or business.

(3) The Board of Trade shall issue to every person required to make a return under this Act the form to be filled up by him.

4. *Report to Parliament.* As soon as practicable after any census is complete the Board of Trade shall present to Parliament a report of their proceedings under this Act, and a summary of the statistics compiled from the returns under this Act, and from such other information as the Board are able to obtain; such summary shall include a separate statement of the statistics obtained in Ireland, and a similar separate statement for Scotland.

5. *Inter-departmental arrangements.*—(1) The Secretary of State may, as respects any factory, workshop, mine, or quarry, issue and collect any of the forms under this Act by arrangement with the Board of Trade, and in such case shall have the same powers and duties for the purpose as are by this Act conferred on the Board of Trade: Provided that the Board of Trade shall not transfer its powers to make rules under section eight.

(2) The Secretary of State may, if he thinks fit, by arrangement with the Board of Trade, cause any statistical returns, which under any other enactment he is authorised to obtain with respect to factories, workshops, mines, or quarries, to be collected at the same time, and, if convenient, on the same forms as returns under this Act.

6. *Prohibition against publishing individual returns.*—

(1) No individual return, and no part of an individual return, made, and no answer to any question put, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or answer was made or given, be published, nor, except for the purposes of a prosecution under this Act, shall any person not engaged in connection with the census be permitted to see any such individual return or any such part of an individual return, and every person engaged in connection with the census shall be required to make a declaration in the prescribed form that he will not disclose, or, except for the purposes of this Act, make use of the contents of any such individual return or any such part of an individual return, or any such answer as aforesaid, and any person who knowingly acts in contravention of any declaration which he has so made shall be guilty of a misdemeanour and on conviction be liable to imprisonment, with or without hard labour, for a term not



exceeding two years, or to a fine, or to both imprisonment and a fine.

(2) It shall be the duty of the Board of Trade in preparing forms, instructions, or rules under this Act, to have due regard to the circumstances of various trades and industries, and in particular to the importance of avoiding the disclosure in any return of any trade secret or of trading profits, or of any other information the disclosure of which would be likely to tend to the prejudice of the person making the return.

(3) In compiling any report, summary of statistics, or other publication under this Act, the Board of Trade shall not disclose in any manner whatever any of the particulars comprised in any individual return, or arrange them in any way which would enable any person to identify any particulars so published as being particulars relating to any individual person or business.

(4) Where it is shown to the satisfaction of the Board of Trade that any trade or business is carried on by any company in whole or in part by means of any one or more subsidiary companies any aggregate of two or more returns relating to the trade or business so carried on shall for the purposes of this Act be treated as an individual return.

A company shall be treated as subsidiary to another company for the purposes of this provision if not less than three-fourths of its ordinary share capital is held by that other company.

(5) If any person, having possession of any information which to his knowledge has been disclosed in contravention of the provisions of this section, publishes or communicates to any other person any such information, he shall be guilty of a misdemeanour and shall on conviction be liable to imprisonment with or without hard labour, for a term not exceeding two years, or to a fine, or to both imprisonment and a fine.

7. *Returns by local and other authorities.* For the purposes of this Act the exercise and performance by a local or other public authority of the powers and duties of that authority shall be treated as the trade or business of that authority.

8. *Power of Board of Trade to make rules.*—The Board of Trade may, after consultation with the Secretary of State, make rules under this Act—

(a) for prescribing, either generally or as respects any particular industry or class of industries, anything which, under this Act, is to be prescribed; and

(b) for exempting from the obligation to make returns under this Act, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any persons or any prescribed class of persons; and

(c) generally for carrying this Act into effect.

All rules made in pursuance of this Act shall be laid before Parliament.

9. *Power to appoint advisory committees.*—The Board of Trade shall appoint one or more committees, including persons conversant with the conditions of and engaged in various trades and industries, for the purpose of advising them when

considering the preparation of the forms and instructions necessary for the taking of the census and the making of any rules under this Act, and in particular such of those rules as prescribe the details of the particulars relating to output and other matters to be filled in in the several forms.

(2) There may be paid to the members of any such committee, as part of the expenses incurred for the purpose of the census, such travelling and other allowances as the Board of Trade fix, with the consent of the Treasury.

(3) Committees may be appointed under this section to advise the Board of Trade specially as regards any special forms, instructions, or rules, or generally as regards any class or classes of forms, instructions, or rules which the Board may assign to them.

(4) A member of an advisory committee shall not as such be permitted to see any individual return or any part thereof or to be made acquainted with any information contained in any answer to any question put for the purposes of this Act.

10. *Intervals for making returns under 1 Edw. 7, c. 21, s. 130.* If the Secretary of State so directs, the intervals at which returns are to be made under section one hundred and thirty of the Factory and Workshop Act, 1901, may, notwithstanding anything in that section, be the same as the intervals at which a census is directed under this Act to be taken.

11. *Voluntary information.* Nothing in this Act shall be construed as preventing the Board of Trade or the Secretary of State from obtaining such additional statistical or other information as any person may be willing to supply either by the insertion of additional particulars in the forms under this Act, or by the circulation of separate forms in any census or inter-censal year: Provided that such particulars, if inserted in forms under this Act, shall be clearly distinguished from the particulars required under this Act to be filled in.

12. *Penalty for offences.* If any person required to make a return under this Act—

(a) wilfully refuses or without lawful excuse neglects to fill up a form to the best of his knowledge and belief, or to sign and deliver it as required by this Act; or

(b) wilfully makes, signs, or delivers, or causes to be made, signed, or delivered, any false return in respect of any matter specified in the form; or

(c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining the information required to be furnished under this Act,

he shall for each offence be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding ten pounds and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues and in respect of false returns and answers the offence shall be deemed to continue until a true return or answer has been made or given.

13. *Short title.* This Act may be cited as the Census of Production Act, 1906.

## SCHEDULE.

## [Section 3.]

## LIST OF PERSONS REQUIRED TO MAKE RETURNS.

(A) The occupier of every factory or workshop within the meaning of the Factory and Workshop Act, 1901.

(b) The owner, agent, or manager of every mine and quarry.

(c) Every builder, that is to say, a person who, by way of trade or business, undertakes the construction or alteration of a building or any part thereof.

(d) Every person who by way of trade or business executes works of construction, alteration, or repair of railroads, tramroads, harbours, docks, canals, sewers, roads, embankments, reservoirs or wells, or of laying or altering gas or water pipes, or telegraphic, telephonic, or electric lines or works, or any other prescribed works.

(e) Every person who by way of trade or business gives out work to be done elsewhere than on his own premises.

(f) Every person carrying on any other trade or business which may be prescribed.

## CHAPTER 50.

[National Galleries of Scotland Act, 1906.]

An Act to establish a Board of Trustees to manage the National Galleries of Scotland; and for other purposes.

[21st December 1906.]

## CHAPTER 51.

[Expiring Laws Continuance Act, 1906.]

An Act to continue various Expiring Laws.

[21st December 1906.]

Whereas the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire on the thirty-first day of December nineteen hundred and six:

And whereas it is expedient to provide for the continuance as in this Act mentioned of those Acts, and of the enactments amending or affecting the same:

Be it therefore enacted, &c.:

1. *Continuance of Acts in Schedule.*—(1) The Acts mentioned in the Schedule to this Act shall, to the extent specified in column three of that Schedule, be continued until the thirty-first day of December nineteen hundred and seven, and shall then expire, unless further continued.

(2) Any unreppealed enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like manner, whether they are mentioned in the Schedule to this Act or not.

2. *Short title.* This Act may be cited as the Expiring Laws Continuance Act, 1906.

## SCHEDULE.

1. Session and Chapter.	2. Short Title.	3. How far continued.	4. Amending Acts.
(1.) 3 & 4 Vict. c. 89 . . . .	The Poor Rate Exemption Act, 1840 . . . .	The whole Act.	—
(2.) 3 & 4 Vict. c. 91 . . . .	The Textile Manufactures (Ireland) Act, 1840 . . . .	The whole Act . . . .	5 & 6 Vict. c. 68. 30 & 31 Vict. c. 60.
(3.) 4 & 5 Vict. c. 30 . . . .	The Ordnance Survey Act, 1841 . . . .	The whole Act . . . .	33 Vict. c. 13. 47 & 48 Vict. c. 43. 52 & 53 Vict. c. 30.
(4.) 10 & 11 Vict. c. 98 . . . .	The Ecclesiastical Jurisdiction Act, 1847 . . . .	As to the provisions continued by 21 & 22 Vict. c. 50.	—

1. Session and Chapter.	2. Short Title	3. How far continued.	4. Amending Acts.
(5.) 14 & 15 Vict. c. 104 . . .	The Episcopal and Capitular Estates Act, 1851 . . .	The whole Act . . .	17 & 18 Vict. c. 116. 21 & 22 Vict. c. 94. 22 & 23 Vict. c. 46. 23 & 24 Vict. c. 124. 31 & 32 Vict. c. 114, s. 10.
(6.) 17 & 18 Vict. c. 104 . . .	The Corrupt Practices Prevention Act, 1854 . . .	So much as is continued by the Corrupt and Illegal Practices Prevention Act, 1883.	26 & 27 Vict. c. 29, s. 6. 31 & 32 Vict. c. 125. 46 & 47 Vict. c. 51.
(7.) 23 & 24 Vict. c. 19 . . .	The Labourers (Ireland) Act, 1860 . . .	The whole Act.	—
(8.) 26 & 27 Vict. c. 105 . . .	The Promissory Notes Act, 1863 . . .	The whole Act . . .	45 & 46 Vict. c. 61.
(9.) 27 & 28 Vict. c. 20 . . .	The Promissory Notes (Ireland) Act, 1864 . . .	The whole Act.	—
(10.) 28 & 29 Vict. c. 46 . . .	The Militia (Ballot Suspension) Act, 1865 . . .	The whole Act . . .	45 & 46 Vict. c. 49.
(11.) 28 & 29 Vict. c. 83 . . .	The Locomotives Act, 1865 . . .	The whole Act . . .	41 & 42 Vict. c. 58. 41 & 42 Vict. c. 77 (Part II.) 59 & 60 Vict. c. 36. 61 & 62 Vict. c. 29.
(12.) 29 & 30 Vict. c. 52 . . .	The Prosecutions Expenses Act, 1866 . . .	The whole Act.	—
(13.) 31 & 32 Vict. c. 125 . . .	The Parliamentary Elections Act, 1868 . . .	So much as is continued by the Corrupt and Illegal Practices Prevention Act, 1883.	42 & 43 Vict. c. 75. 46 & 47 Vict. c. 51.
(14.) 32 & 33 Vict. c. 21 . . .	The Corrupt Practices Commission Expenses Act, 1869 . . .	The whole Act . . .	34 & 35 Vict. c. 61.
(15.) 32 & 33 Vict. c. 56 . . .	The Endowed Schools Act, 1869 . . .	As to the powers of making schemes.	36 & 37 Vict. c. 87. 37 & 38 Vict. c. 87. 52 & 53 Vict. c. 40.
(16.) 33 & 34 Vict. c. 112 . . .	The Glebe Loan (Ireland) Act, 1870 . . .	The whole Act . . .	34 & 35 Vict. c. 100. 49 Vict. c. 6.
(17.) 34 & 35 Vict. c. 87 . . .	The Sunday Observation Prosecution Act, 1871 . . .	The whole Act.	—
(18.) 35 & 36 Vict. c. 33 . . .	The Ballot Act, 1872 . . .	The whole Act . . .	45 & 46 Vict. c. 50. (Municipal Elections.)
(19.) 38 & 39 Vict. c. 84 . . .	The Parliamentary Elections (Returning Officers) Act, 1875.	The whole Act . . .	46 & 47 Vict. c. 51, s. 32. 48 & 49 Vict. c. 62. 49 & 50 Vict. c. 57.
(20.) 39 & 40 Vict. c. 21 . . .	The Jurors Qualification (Ireland) Act, 1876 . . .	The whole Act . . .	57 & 58 Vict. c. 49. 61 & 62 Vict. c. 37, s. 69.
(21.) 41 & 42 Vict. c. 41 . . .	The Parliamentary Elections Returning Officers Ex- penses (Scotland) Act, 1878.	The whole Act . . .	48 & 49 Vict. c. 62. 49 & 50 Vict. c. 58. 54 & 55 Vict. c. 49.
(22.) 43 Vict. c. 18 . . .	The Parliamentary Elections and Corrupt Practices Act, 1880.	The whole Act . . .	46 & 47 Vict. c. 51.
(23.) 43 & 44 Vict. c. 42 . . .	The Employers' Liability Act, 1880 . . .	The whole Act.	—
(24.) 46 & 47 Vict. c. 51 . . .	The Corrupt and Illegal Practices Prevention Act, 1883	The whole Act . . .	58 & 59 Vict. c. 40.
(25.) 47 & 48 Vict. c. 70 . . .	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	The whole Act . . .	56 & 57 Vict. c. 73.
(26.) 49 & 50 Vict. c. 29 . . .	The Crofters Holdings (Scotland) Act, 1886 . . .	As to the powers of the Com- missioners for the enlarge- ment of holdings, s. 22.	50 & 51 Vict. c. 24. 51 & 52 Vict. c. 63. 54 & 55 Vict. c. 41.
(27.) 51 & 52 Vict. c. 55 . . .	The Sand Grouse Protection Act, 1888 . . .	The whole Act.	—
(28.) 52 & 53 Vict. c. 40 . . .	The Welsh Intermediate Education Act, 1889 . . .	As to the powers of the joint education committee and the suspension of the powers of the Charity Commissioners.	53 & 54 Vict. c. 60.
(29.) 57 & 58 Vict. c. 12 . . .	The Indian Railways Act, 1894 . . .	The whole Act.	—
(30.) 58 & 59 Vict. c. 21 . . .	The Seal Fisheries (North Pacific) Act, 1895 . . .	The whole Act.	—
(31.) 59 Vict. c. 1 . . .	The Local Government (Elections) Act, 1896 . . .	The whole Act.	—
(32.) 59 & 60 Vict. c. 48 . . .	The Light Railways Act, 1896 . . .	As to the powers of the Light Railway Commissioners.	—
(33.) 61 & 62 Vict. c. 49 . . .	The Vaccination Act, 1898 . . .	The whole Act.	—
(34.) 3 Edw. 7, c. 26 . . .	The Motor Car Act, 1903 . . .	The whole Act . . .	—



CHAPTER 52.

[Land Tax Commissioners Act, 1906.]

An Act to appoint additional Commissioners for executing the Acts granting a Land Tax and other Rates and Taxes, and to remove the qualification by estate required in the case of all such Commissioners, whether appointed under this or any previous Act.

[21st December 1906.]

CHAPTER 53.

[Notice of Accidents Act, 1906.]

An Act to amend the Law relating to Returns and Notifications of Accidents in Mines, Quarries, Factories, and Workshops, and under the Notice of Accidents Act, 1894.

[21st December 1906.]

Be it enacted, &c.:

1. *Annual returns of accidents in mines and quarries.*—Section thirty-three of the Coal Mines Regulation Act, 1887 [50 & 51 Vict. c. 58], and section one of the Metalliferous Mines Regulation Act, 1875 [38 & 39 Vict. c. 39] (both in its application to metalliferous mines and in its application to quarries), shall be read as if the matters to be specified in the returns to be given under those sections respectively included a statement containing such particulars as the Secretary of State may prescribe of all accidents which occurred in or about the mine or quarry during the year to which the return relates, and disabled for more than seven days any person employed in or about the mine or quarry from working at his ordinary work.

2. *Notices of accidents in mines and quarries.*—(1) Section thirty-five of the Coal Mines Regulation Act, 1887, shall be read as if the following sub-section were substituted for sub-section (1) of that section:—

"(a) Where, in or about any mine to which this Act applies whether above or below ground, any accident occurs which either—

"(i) causes loss of life to any person employed in or about the mine; or

"(ii) causes any fracture of the head or of any limb, or any dislocation of a limb, or any other serious personal injury to any person employed in or about the mine; or

"(iii) is caused by any explosion of gas or coal dust, or any explosive, or by electricity, or by overwinding, or by any other such special cause as the Secretary of State specifies by order, and causes any personal injury whatever to any person employed in or about the mine, the owner, agent, or manager of the mine shall forthwith send notice in writing of the accident, and of any loss of life or personal injury caused thereby, to the inspector of the district, in such form and accompanied by such particulars as the Secretary of State prescribes."

(2) The same sub-section shall be substituted for so much of section eleven of the Metalliferous Mines Act, 1872 [35 & 36 Vict. c. 77], as is repealed by this Act, both as respects the application of that section to metalliferous mines and as respects its application to quarries.

3. *Application to railway sidings in connection with mines and quarries.*—Where any line or siding, not being part of a railway within the meaning of the Railway Employment (Prevention of Accidents) Act, 1900 [63 & 64 Vict. c. 27], is used in connection with a mine or quarry, the provisions of the Coal Mines Regulations Acts, 1887 to 1896, and of the Metalliferous Mines Regulations Acts, 1872 and 1875, as respectively amended by this Act with respect to returns and notification of accidents shall have effect, so far as regards accidents to persons employed by or on behalf of the owner of the mine or quarry, as if the line or siding were part of the mine or quarry.

4. *Notices of accidents in factories and workshops.*—(1) Where any accident occurs in a factory or workshop which is either—

(a) an accident causing loss of life to a person employed in the factory or workshop; or

(b) an accident due to any machinery moved by mechanical power, or to molten metal, hot liquid, explosion, escape of gas or steam, or to electricity, and so disabling any person employed in the factory or workshop as to cause him to be absent throughout at least one whole day from his ordinary work; or

(c) an accident due to any other special cause which the Secretary of State may specify by order, and causing such disablement as aforesaid; or

(d) an accident disabling for more than seven days a person employed in the factory or workshop from working at his ordinary work,

written notice of the accident, in such form and accompanied by such particulars as the Secretary of State prescribes, shall forthwith be sent to the inspector of the district and also in the case of the accidents mentioned in paragraphs (a) and (b) of this sub-section, and (if the order of the Secretary of State specifying the special cause so requires) of accidents mentioned in paragraph (c) to the certifying surgeon of the district.

(2) If any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the inspector as soon as the death comes to the knowledge of the occupier of the factory or workshop.

(3) If any notice with respect to an accident in a factory or workshop required to be sent by this section is not sent as so required, the occupier of the factory or workshop shall be liable to a fine not exceeding ten pounds.

(4) If any accident to which this section applies occurs to a person employed in a factory or workshop the occupier of which is not the actual employer of the person killed or injured, the actual employer shall immediately report the same to the occupier, and in default shall be liable to a fine not exceeding five pounds.

(5) The foregoing provisions of this section shall be substituted for section nineteen of the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22].

5. *Power to extend provisions as to notice of accidents to dangerous occurrences.*—(1) If the Secretary of State considers that, by reason of the risk of serious injury to persons employed, it is expedient that notice should be given under this Act in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences in a mine or quarry, or in a factory or workshop, including any place which for the purpose of the provisions of the Factory and Workshop Act, 1901, with respect to accidents is a factory or workshop, or is included in the word "factory" or "workshop," or is part of a factory or workshop, the Secretary of State may by order extend the provisions of this Act requiring notice of accidents to be given to an inspector to any such class of occurrences, whether personal injury or disablement is caused or not, and, where any such order is made, the provisions of this Act shall have effect as extended by the order.

(2) The Secretary of State may by any such order allow the required notice of any occurrence to which the order relates, instead of being sent forthwith, to be sent within the time limited by the order.

6. *Notice of accidents under 57 & 58 Vict. c. 28.*—Section one of the Notice of Accidents Act, 1894, shall be read as if the words "cause him to be absent throughout at least one whole day from his ordinary work" were substituted for the words "prevent him on any one of the three working days next after the occurrence of the accident from being employed for five hours on his ordinary work" in sub-section (1) of that section.

7. *Repeal, construction, and short title.*—(1) The enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

(2) This Act may be cited as the Notice of Accidents Act, 1906, and shall come into operation on the first day of January nineteen hundred and seven, but the Secretary of State may appoint a later date (not being later than the first day of January one thousand nine hundred and eight) for

any special provision of the Act to come into operation, and, if a later date is so appointed, that special provision shall not come into operation until that later date.

SCHEDULE.

[Section 7.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
35 & 36 Vict. c. 77.	The Metalliferous Mines Regulation Act, 1872.	Section eleven from the beginning to "injured respectively."
50 & 51 Vict. c. 58.	The Coal Mines Regulation Act, 1887.	Section thirty-five, sub-section one.
57 & 58 Vict. c. 28.	The Notice of Accidents Act, 1894.	Section one, sub-section three.
63 & 64 Vict. c. 27.	The Railway Employment (Prevention of Accidents) Act, 1900.	Section thirteen, sub-section three.
1 Edw. 7, c. 22.	The Factory and Workshop Act, 1901.	Section nineteen.

CHAPTER 54.

[Town Tenants (Ireland) Act, 1906.]

An Act to improve the position of Tenants of certain Houses, Shops, or other Buildings in Ireland.

[21st December 1906.]

CHAPTER 55.

[Public Trustee Act, 1906.]

An Act to provide for the appointment of a Public Trustee and to amend the Law relating to the administration of Trusts.

[21st December 1906.]

Be it enacted, &c.:

ESTABLISHMENT OF PUBLIC TRUSTEE.

1. *Office of public trustee.*—(1) There shall be established the office of public trustee.

(2) The public trustee shall be a corporation sole under that name, with perpetual succession and an official seal, and may sue and be sued under the above name like any other corporation sole, but any instruments sealed by him shall not, by reason of his using a seal, be rendered liable to a higher stamp duty than if he were an individual.

POWERS AND DUTIES OF PUBLIC TRUSTEE.

2. *General powers and duties of public trustee.*—(1) Subject to and in accordance with the provisions of this Act and rules made thereunder, the public trustee may, if he thinks fit—

(a) act in the administration of estates of small value;

(b) act as custodian trustee;

(c) act as an ordinary trustee;

(d) be appointed to be a judicial trustee;

(e) be appointed to be the administrator of the property of a convict under the Forfeiture Act, 1870 [33 & 34 Vict. c. 23].

(2) Subject to the provisions of this Act, and to the rules made thereunder, the public trustee may act either alone or jointly with any person or body of persons in any capacity to which he may be appointed in pursuance of this Act, and shall have all the same powers, duties, and liabilities, and be entitled to the same rights and immunities and be subject to the control and orders of the court, as a private trustee acting in the same capacity.

(3) The public trustee may decline, either absolutely or except on the prescribed conditions, to accept any trust, but he shall not decline to accept any trust on the ground only of the small value of the trust property.

(4) The public trustee shall not accept any trust which involves the management or carrying on of

any business, except in the cases in which he may be authorised to do so by rules made under this Act, nor any trust under a deed of arrangement for the benefit of creditors, nor the administration of any estate known or believed by him to be insolvent.

(5) The public trustee shall not accept any trust exclusively for religious or charitable purposes, and nothing in this Act contained, or in the rules to be made under the powers in this Act contained, shall abridge or affect the powers or duties of the official trustee of charity lands or official trustees of charitable funds.

(1) *In the administration of small Estates.*

3. *Administration of small estates.*—(1) Any person who in the opinion of the public trustee would be entitled to apply to the court for an order for the administration by the court of an estate, the gross capital value whereof is proved to the satisfaction of the public trustee to be less than one thousand pounds, may apply to the public trustee to administer the estate, and, where any such application is made and it appears to the public trustee that the persons beneficially entitled are persons of small means, the public trustee shall administer the estate, unless he sees good reason for refusing to do so.

(2) On the public trustee undertaking, by declaration in writing signed and sealed by him, to administer the estate the trust property other than stock shall, by virtue of this Act, vest in him, and the right to transfer or call for the transfer of any stock forming part of the estate shall also vest in him, in like manner as if vesting orders had been made for the purpose by the High Court under the Trustee Act, 1893 [56 & 57 Vict. c. 53], and that Act shall apply accordingly. As from such vesting any trustee entitled under the trust to administer the estate shall be discharged from all liability attaching to the administration, except in respect of past acts:

Provided that—

(a) the public trustee shall not exercise the right of himself transferring the stock without the leave of the court; and

(b) this sub-section shall not apply to any copyhold land forming part of the estate, but the public trustee shall, as respects such land, have the like powers if he had been appointed by the court under section thirty-three of the Trustee Act, 1893, to convey the land, and section thirty-four of that Act shall apply accordingly.

(3) For the purposes of the administration the public trustee may exercise such of the administrative powers and authorities of the High Court as may be conferred on him by rules under this Act, subject to such conditions as may be imposed by the rules.

(4) Rules shall be made under this Act for enabling the public trustee to take the opinion of the High Court on any question arising in the course of any administration without judicial proceedings, and otherwise for making the procedure under this section simple and inexpensive.

(5) Where proceedings have been instituted in any court for the administration of an estate, and by reason of the small value of the estate it appears to the court that the estate can be more economically administered by the public trustee than by the court, or that for any other reason it is expedient that the estate should be administered by the public trustee instead of the court, the court may order that the estate shall be administered by the public trustee, and thereupon (subject to any directions by the court) this section shall apply as if the administration of the estate had been undertaken by the public trustee in pursuance of this section.

(2) *As Custodian Trustee.*

4. *Custodian trustee.*—(1) Subject to rules under this Act the public trustee may, if he consents to act as such, and whether or not the number of trustees has been reduced below the original number, be appointed to be custodian trustee of any trust—

(a) by order of the court made on the application of any person on whose application the court may order the appointment of a new trustee; or

(b) by the testator, settlor, or other creator of any trust; or

(c) by the person having power to appoint new trustees.

(2) Where the public trustee is appointed to be custodian trustee of any trust—

(a) The trust property shall be transferred to the custodian trustee as if he were sole trustee, and for that purpose vesting orders may, where necessary, be made under the Trustee Act, 1893:

(b) The management of the trust property and the exercise of any power or discretion exercisable by the trustees under the trust shall remain vested in the trustees other than the custodian trustee (which trustees are hereinafter referred to as the managing trustees):

(c) As between the custodian trustee and the managing trustee, and subject and without prejudice to the rights of any other persons, the custodian trustee shall have the custody of all securities and documents of title relating to the trust property, but the managing trustees shall have free access thereto and be entitled to take copies thereof or extracts therefrom:

(d) The custodian trustee shall concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them (including the power to pay money or securities into court), unless the matter in which he is requested to concur is a breach of trust, or involves a personal liability upon him in respect of calls or otherwise, but, unless he so concurs, the custodian trustee shall not be liable for any act or default on the part of the managing trustees or any of them:

(e) All sums payable to or out of the income or capital of the trust property shall be paid to or by the custodian trustee: Provided that the custodian trustee may allow the dividends and other income derived from the trust property to be paid to the managing trustees or to such person as they direct, or into such bank to the credit of such person as they may direct, and in such case shall be exonerated from seeing to the application thereof and shall not be answerable for any loss or misapplication thereof:

(f) The power of appointing new trustees, when exercisable by the trustees, shall be exercisable by the managing trustees alone, but the custodian trustee shall have the same power of applying to the court for the appointment of a new trustee as any other trustee:

(g) In determining the number of trustees for the purposes of the Trustee Act, 1893, the custodian trustee shall not be reckoned as a trustee:

(A) The custodian trustee, if he acts in good faith, shall not be liable for accepting as correct and acting upon the faith of any written statement by the managing trustees as to any birth, death, marriage, or other matter of pedigree or relationship, or other matter of fact, upon which the title to the trust property or any part thereof may depend, nor for acting upon any legal advice obtained by the managing trustees independently of the custodian trustee:

(i) The court may, on the application of either the custodian trustee, or any of the managing trustees, or of any beneficiary, and on proof to their satisfaction that it is the general wish of the beneficiaries, or that on other grounds it is expedient, to terminate the custodian trusteeship, make an order for that purpose, and the court may thereupon make such vesting orders and give such directions as under the circumstances may seem to the court to be necessary or expedient.

(3) The provisions of this section shall apply in like manner as to the public trustee to any banking or insurance company or other body corporate entitled by rules made under this Act to act as custodian trustee, with power for such company or body corporate to charge and retain or pay out of the trust property fees not exceeding the fees chargeable by the public trustee as custodian trustee.

(3) *As an ordinary Trustee.*

5. *Appointment of public trustee to be trustee, executor, &c.*—(1) The public trustee may by that name, or any other sufficient description, be appointed to be trustee of any will or settlement or other instrument creating a trust or to perform any trust or duty belonging to a class which he is authorised by the rules made under this Act to accept, and may be so appointed whether the will or settlement or instrument creating the trust or duty was made or came into operation before or after the passing of this Act, and either as an original or as a new trustee, or as an additional trustee, in the same cases, and in the same manner, and by the same persons or court, as if he were a private trustee, with this addition, that, though the trustees originally appointed were two or more, the public trustee may be appointed sole trustee.

(2) Where the public trustee has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with section eleven of the Trustee Act, 1893, notwithstanding that there are not more than two trustees, and without such consents as are required by that section.

(3) The public trustee shall not be so appointed either as a new or additional trustee where the will, settlement, or other instrument creating the trust or duty contains a direction to the contrary, unless the court otherwise order.

(4) Notice of any proposed appointment of the public trustee either as a new or additional trustee shall where practicable be given in the prescribed manner to all persons beneficially interested who are resident in the United Kingdom and whose addresses are known to the persons proposing to make the appointment, or, if such beneficiaries are infants, to their guardians, and if any person to whom such notice has been given within twenty-one days from the receipt of the notice applies to the court, the court may, if having regard to the interests of all the beneficiaries it considers it expedient to do so, make an order prohibiting the appointment being made, provided that a failure to give any such notice shall not invalidate any appointment made under this section.

6. *Power as to granting probate.*—(1) If in pursuance of any rule under this Act, the public trustee is authorised to accept by that name probates of wills or letters of administration, the court having jurisdiction to grant probate of a will or letters of administration may grant such probate or letters to the public trustee by that name, and for that purpose the court shall consider the public trustee as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration, save that the consent or citation of the public trustee shall not be required for the grant of letters of administration to any other person, and that, as between the public trustee and the widower widow or next-of-kin of the deceased, the widower widow or next-of-kin shall be preferred, unless for good cause shown to the contrary.

(2) Any executor who has obtained probate or any administrator who has obtained letters of administration, and notwithstanding he has acted in the administration of the deceased's estate, may, with the sanction of the court, and after such notice to the persons beneficially interested as the court may direct, transfer such estate to the public trustee for administration either solely or jointly with the continuing executors or administrator, if any. And the order of the court sanctioning such transfer shall, subject to the provisions of this Act, give to the public trustee all the powers of such executor and administrator, and such executor and administrator shall not be in any way liable in respect of any act or default in reference to such estate subsequent to the date of such order, other than the act or default of himself or of persons other than himself for whose conduct he is in law responsible.

LIABILITY: OFFICERS AND OFFICES: FEES.

7. *Liability of Consolidated Fund.*—(1) The Consolidated Fund of the United Kingdom shall be liable to make good all sums required to discharge any liability which the public trustee, if he were a private trustee, would be personally liable to discharge, except where the liability is one to which neither the public trustee nor any of his officers



has in any way contributed, and which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in that case the public trustee shall not, nor shall the Consolidated Fund, be subject to any liability.

(2) All sums payable in pursuance of this section out of the Consolidated Fund shall be charged on and issued out of that fund or the growing produce thereof.

**8. Officers and offices.**—(1) The Lord Chancellor shall appoint a fit person to the office of public trustee, who shall hold office during pleasure, and receive such salary or fees, and be appointed on such terms, as the Treasury may determine.

(2) The Lord Chancellor shall appoint such persons to be officers of the public trustee as, subject to the sanction of the Treasury, he may consider necessary for the purposes of this Act, and those officers shall hold office upon such terms, and be remunerated at such rates and in such manner, as the Treasury may sanction.

(3) Any person appointed to be public trustee or an officer of the public trustee may, and shall, if the Treasury so require, be a person already in the public service.

(4) The public trustee shall, if so directed by the Lord Chancellor with the concurrence of the Treasury, maintain offices in London and elsewhere, and, so far as practicable, buildings already used for public purposes shall be used for such offices.

(5) The salary or remuneration of the public trustee and his officers and such other expenses of executing his office or otherwise carrying this Act into effect as may be sanctioned by the Treasury shall be paid out of moneys provided by Parliament.

**9. Fees charged by public trustee.**—(1) There shall be charged in respect of the duties of the public trustee such fees, whether by way of percentage or otherwise, as the Treasury with the sanction of the Lord Chancellor may fix, and such fees shall be collected and accounted for by such persons, and in such manner, and shall be paid to such account, as the Treasury direct.

(2) Any expenses which might be retained or paid out of the trust property if the public trustee were a private trustee shall be so retained or paid, and the fees shall be retained or paid in the like manner as and in addition to such expenses.

(3) Such fees shall, under the regulations of the Treasury, be applied as an appropriation in aid of moneys provided by Parliament for expenses under this Act, and so far as not so applied shall be paid into the Exchequer.

(4) The fees under this section shall be arranged from time to time so as to produce an annual amount sufficient to discharge the salaries and other expenses incidental to the working of this Act (including such sum as the Treasury may from time to time determine to be required to insure the Consolidated Fund against loss under this Act) and no more.

(5) The incidence of the fees and expenses under this section as between capital and income shall be determined by the public trustee.

**SUPPLEMENTAL PROVISIONS AS TO PUBLIC TRUSTEE.**

**10. Appeal to the court.**—(1) A person aggrieved by an act or omission or decision of the public trustee in relation to any trust may apply to the court, and the court may make such order in the matter as the court thinks just.

(2) Subject to rules of court, an application under this section to the High Court shall be made to a judge of the Chancery Division of the High Court in Chambers.

**11. Mode of action of public trustee.**—(1) The public trustee shall not, nor shall any of his officers, act under this Act for reward, except as provided by this Act.

(2) The public trustee may, subject to the rules made under this Act, employ for the purposes of any trust such solicitors, bankers, accountants, and brokers, or other persons as he may consider necessary, and in determining the persons to be so employed in relation to any trust the public trustee shall have regard to the interests of the trust, but subject to this shall, whenever practicable,

take into consideration the wishes of the creator of the trust and of the other trustees (if any), and of the beneficiaries, either expressed or as implied by the practice of the creator of the trust, or in the previous management of the trust.

(3) On behalf of the public trustee such person as may be prescribed may take any oath, make any declaration, verify any account, give personal attendance at any court or place, and do any act or thing whatsoever which the public trustee is required or authorised to take, make, verify, give, or do: Provided that nothing in this Act or in any rule made under this Act shall confer upon any person not otherwise entitled thereto any right to appear, or act, or be heard in or before any court or tribunal, on behalf or instead of the public trustee, or to do any act whatsoever on behalf or on the instructions of the public trustee, which could otherwise only be lawfully done by a barrister or a duly certificated solicitor.

(4) Where any bond or security would be required from a private person upon the grant to him of administration, or upon his appointment to act in any capacity, the public trustee, if administration is granted to him or if he is appointed to act in such capacity as aforesaid, shall not be required to give such bond or security, but shall be subject to the same liabilities and duties as if he had given such bond or security.

(5) The entry of the public trustee by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to enter the name of the public trustee on its books by reason only that the public trustee is a corporation, and, in dealings with property, the fact that the person or one of the persons dealt with is the public trustee, shall not of itself constitute notice of a trust.

**12. Application of Act to palatine courts.** The provisions of this Act with respect to the High Court shall, in their application to cases within the jurisdiction of a palatine court, include that court, and the public trustee shall provide an address within the county palatine where service upon him of any proceedings under this Act in such palatine court may be effected: the rules of court relating to the exercise of the jurisdiction of a palatine court under this Act shall be made by the authority having power to make general rules and orders of that court.

**INVESTIGATION AND AUDIT OF TRUST ACCOUNTS.**

**13. Investigation and audit of trust accounts.**—(1) Subject to rules under this Act and unless the court otherwise orders, the condition and accounts of any trust shall, on an application being made and notice thereof given in the prescribed manner by any trustee or beneficiary, be investigated and audited by such solicitor or public accountant as may be agreed on by the applicant and the trustee or, in default of agreement, by the public trustee or some person appointed by him:

Provided that (except with the leave of the court) such an investigation or audit shall not be required within twelve months after any such previous investigation or audit, and that a trustee or beneficiary shall not be appointed under this section to make an investigation or audit.

(2) The person making the investigation or audit (hereinafter called the auditor) shall have a right of access to the books, accounts, and vouchers of the trustees, and to any securities and documents of title held by them on account of the trust, and may require from them such information and explanation as may be necessary for the performance of his duties, and upon the completion of the investigation and audit shall forward to the applicant and to every trustee a copy of the accounts, together with a report thereon, and a certificate signed by him to the effect that the accounts exhibit a true view of the state of the affairs of the trust and that he has had the securities of the trust fund investments produced to and verified by him or (as the case may be) that such accounts are deficient in such respects as may be specified in such certificate.

(3) Every beneficiary under the trust shall, subject to rules under this Act, be entitled at all reasonable times to inspect and take copies of the

accounts, report, and certificate, and, at his own expense, to be furnished with copies thereof or extracts therefrom.

(4) The auditor may be removed by order of the court, and, if any auditor is removed, or resigns, or dies, or becomes bankrupt or incapable of acting before the investigation and audit is completed, a new auditor may be appointed in his place in like manner as the original auditor.

(5) The remuneration of the auditor and the other expenses of the investigation and audit shall be such as may be prescribed by rules under this Act, and shall, unless the public trustee otherwise directs, be borne by the estate; and, in the event of the public trustee so directing, he may order that such expenses be borne by the applicant or by the trustees personally or partly by them and partly by the applicant.

(6) If any person having the custody of any documents to which the auditor has a right of access under this section fails or refuses to allow him to have access thereto or in anywise obstructs the investigation or audit, the auditor may apply to the court, and thereupon the court shall make such order as it thinks just.

(7) Subject to rules of court, applications under or for the purposes of this section to the High Court shall be made to a judge of the Chancery Division in Chambers.

(8) If any person in any statement of accounts, report, or certificate required for the purposes of this section willfully makes a statement false in any material particular, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, and on summary conviction to imprisonment for a term not exceeding six months, with or without hard labour, and in either case to a fine in lieu of or in addition to such imprisonment.

**RULES: DEFINITIONS: SHORT TITLE AND EXTENT.**

**14. Rules.**—(1) The Lord Chancellor shall, with the concurrence of the Treasury, make rules for carrying into effect the objects of this Act, and in particular for all or any of the following purposes (that is to say):—

- (a) establishing the office of public trustee and prescribing the trusts or duties he is authorised to accept or undertake, and the security, if any, to be given by the public trustee and his officers;
- (b) the transfer to and from the public trustee of any property;
- (c) the accounts to be kept and an audit thereof;
- (d) the establishment and regulation of any branch office;
- (e) excluding any trusts from the operation of this Act or any part thereof;
- (f) the classes of corporate bodies entitled to act as custodian trustees;
- (g) the form and manner in which notices under this Act shall be given.

(2) Every rule under this Act shall be laid before each House of Parliament forthwith, and, if an address is presented to His Majesty by either House of Parliament, within the next subsequent thirty days on which the House has sat next after any such rule is laid before it, praying that the rule may be annulled, His Majesty in Council may annul the rule, and it shall thereupon be void, but without prejudice to the validity of anything previously done thereunder.

(3) If the rules require a declaration to be made for any purpose, a person who makes such declaration, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanour.

**15. Definition.** In this Act, unless the context otherwise requires,—

the expression "court" means the High Court and, as respects trusts within its jurisdiction, the county court;

the expression "letters of administration" means letters of administration of the estate and effects of a deceased person, whether general or with a will annexed, or limited either in time or otherwise;

the expression "trust" includes an executorship or administration; and the expression "trustee" shall be construed accordingly; and the expression "trust property" shall include all property in the possession or under the control wholly or partly of the public trustee by virtue of any trust:

the expression "private trustee" means a trustee other than the public trustee:

the expression "expenses" includes costs and charges:

the expression "prescribed" means prescribed for the time being by rules under this Act: other expressions have the same meaning as in the Trustee Act, 1893.

6. *Commencement of Act.*—This Act shall come into operation on the first day of January one thousand nine hundred and eight.

17. *Short title and extent.*—(1) This Act may be cited as the Public Trustee Act, 1906.

(2) This Act shall not extend to Ireland or Scotland.

## CHAPTER 56.

[Agricultural Holdings Act, 1906.]

An Act to amend the Law relating to Agricultural Holdings. [21st December, 1906.]

Be it enacted, &c.:

1. *Amendment of 63 & 64 Vict. c. 50.*—(1) Sub-section (1) of section one of the Agricultural Holdings Act, 1900, shall be repealed and for it substituted:—

Where a tenant has made on his holding any improvement comprised in the First Schedule to this Act, he shall, subject as in the Agricultural Holdings (England) Act, 1883 (in this Act referred to as "the principal Act") and in this Act mentioned, be entitled at the determination of a tenancy on quitting his holding to obtain from the landlord, as compensation under the said Acts for the improvement, such sum as fairly represents the value of the improvement to an incoming tenant.

(2) All questions which, under the Agricultural Holdings (England) Acts, 1883 to 1900, or the Agricultural Holdings (Scotland) Acts, 1883 to 1900, or this Act, or under the contract of tenancy, are referred to arbitration shall, whether the matter to which the arbitration relates arose before or after the passing of this Act, be determined, notwithstanding any agreement to the contrary, by a single arbitrator, in accordance with the provisions set out in Part I. of the Second Schedule to the Agricultural Holdings Act, 1900, and any sum awarded by such arbitrator to be paid shall be recoverable in manner provided by the Agricultural Holdings (England) Acts, 1883 to 1900, or the Agricultural Holdings (Scotland) Acts, 1883 to 1900, for the recovery of compensation.

(3) The following rule shall be substituted for rule (10) in Part I. of the Second Schedule to the Agricultural Holdings Act, 1900:—

The arbitrator shall on the application of either party specify the amount awarded in respect of any particular improvement or any particular matter the subject of the award, and the award shall fix a day not sooner than one month or later than two months after the delivery of the award for the payment of the money awarded as compensation, costs, or otherwise, and shall be in such form as may be prescribed by the Board of Agriculture and Fisheries.

2. *Compensation for damage by game.*—(1) Where the tenant has sustained damage to his crops from game the right to kill and take which is vested neither in him nor in anyone claiming under him other than the landlord, and which the tenant has not permission in writing to kill, he shall be entitled to compensation from his landlord for such damage if it exceeds in amount the sum of one shilling per acre of the area over which the damage extends, and any agreement to the contrary, or in limitation of such compensation, shall be void.

(2) The amount of compensation payable under

this section shall, in default of agreement made after the damage has been suffered, be determined by arbitration, but no compensation shall be recoverable under this section unless notice in writing is given to the landlord as soon as may be after the damage was first observed by the tenant and a reasonable opportunity is given to the landlord to inspect the damage—

(a) in the case of damage to a growing crop, before the crop is begun to be reaped, raised, or consumed; and

(b) in the case of damage to a crop reaped or raised, before it is begun to be removed from the land—

and unless notice in writing of the claim, together with the particulars thereof, is given to the landlord within one month after the expiration of the calendar year, or such other period of twelve months as by agreement between the landlord and tenant may be substituted therefor, in respect of which the claim is made.

(3) Where the landlord proves that, under a contract of tenancy made before the commencement of this Act, any compensation for damage by game is payable by him, or that in fixing the rent to be paid under such contract allowance in respect of such damage to an agreed amount was expressly made, the arbitrator shall make such deduction from the compensation which would otherwise be payable under this section as may appear just.

(4) Where the right to kill and take the game is vested in some person other than the landlord, the landlord shall be entitled to be indemnified by such other person against all claims for compensation under this section.

For the purposes of this section the expression "game" means deer, pheasants, partridges, grouse, and black game.

3. *Freedom of cropping and disposal of produce.*—

(1) Notwithstanding any custom of the country or the provisions of any contract of tenancy or agreement respecting the method of cropping of arable lands, or the disposal of crops, a tenant shall have full right to practise any system of cropping of the arable land on his holding and to dispose of the produce of his holding without incurring any penalty, forfeiture, or liability: Provided that he shall previously have made, or, as soon as may be, shall make, suitable and adequate provision to protect the holding from injury or deterioration, which provision shall in the case of disposal of the produce of the holding consist in the return to the holding of the full equivalent manurial value to the holding of all crops sold off or removed from the holding in contravention of the custom, contract, or agreement:

Provided that this sub-section shall not apply—

(a) in the case of a tenancy from year to year, as respects the year before the tenant quits the holding or any period after he has given or received notice to quit which results in his quitting the holding; or

(b) in any other case, as respects the year before the expiration of the contract of tenancy.

(2) If the tenant exercises his rights under this section in such a manner as to injure or deteriorate the holding, or to be likely to injure or deteriorate the holding, the landlord shall without prejudice to any other remedy which may be open to him be entitled to recover damages in respect of such injury or deterioration at any time, and, should the case so require, to obtain an injunction, or in Scotland an interdict, restraining the exercise of the rights under this section in that manner, and the amount of such damages may, in default of agreement, be determined by arbitration.

(3) A tenant shall not be entitled to any compensation in respect of improvements comprised in Part III. of the First Schedule to the Agricultural Holdings Act, 1900, which have been made for the purpose of making such provision to protect the holding from injury or deterioration as is required by this section.

(4) In this section the expression "arable land" shall not include land in grass, which by the terms of any contract of tenancy is to be retained in the same condition throughout the tenancy.

4. *Compensation for unreasonable disturbances.*—Where the landlord, without good and sufficient

cause, and for reasons inconsistent with good estate management, terminates a tenancy by notice to quit, or, after having been requested in writing, at least one year before the expiration of a tenancy, to grant a renewal thereof, refuses to do so, or where it has been proved that an increase of rent is demanded from the tenant, and that such increase was demanded by reason of an increase in the value of the holding due to improvements which have been executed by or at the cost of the tenant, and for which he has not, either directly or indirectly, received an equivalent from the landlord, and such demand results in the tenant quitting the holding, the tenant, upon quitting the holding, shall, in addition to the compensation (if any) to which he may be entitled in respect of improvements, and notwithstanding any agreement to the contrary, be entitled to compensation for the loss or expense directly attributable to his quitting the holding which the tenant may unavoidably incur upon or in connection with the sale or removal of his household goods, or his implements of husbandry, produce, or farm stock, on or used in connection with the holding.

Provided that no compensation under this section shall be payable—

(a) unless the tenant has given to the landlord a reasonable opportunity of making a valuation of such goods, implements, produce, and stock as aforesaid; or

(b) unless the tenant has within two months after he has received notice to quit or a refusal to grant a renewal of the tenancy, as the case may be, given to the landlord notice in writing of his intention to claim compensation under this section; or

(c) where the tenant with whom a contract of tenancy was made has died within three months before the date of the notice to quit, or in the case of a lease for years before the refusal to grant a renewal; or

(d) if the claim for compensation is not made within three months after the time at which the tenant quits the holding.

In the event of any difference arising as to any matter under this section the difference shall, in default of agreement, be settled by arbitration.

5. *Retrospective effect of 58 & 59 Vict. c. 27, s. 4, and 60 & 61 Vict. c. 22.*—Section four of the Market Gardeners' Compensation Act, 1895, and section four of the Market Gardeners' Compensation (Scotland) Act, 1897, shall apply to improvements executed before the dates of the commencement of those Acts respectively in like manner as the sections apply to improvements executed after those dates.

6. *Consent of landlord not required for certain improvements.*—The following improvements shall be included in Part III. of the First Schedule to the Agricultural Holdings Act, 1900:—Repairs to buildings, being buildings necessary for the proper cultivation or working of the holding, other than repairs which the tenant is himself under an obligation to execute.

Provided that the tenant, before beginning to execute any such repairs, shall give to the landlord notice in writing of his intention, together with particulars of such repairs, and shall not execute the repairs unless the landlord fails to execute them within a reasonable time after receiving such notice.

7. *Record of holding.*—If at the commencement of any tenancy entered into after the commencement of this Act either party so requires, a record of the condition of the buildings, fences, gates, roads, drains, ditches, and cultivation of the holding shall be made within three months after the commencement of the tenancy by a person to be appointed in default of agreement by the Board of Agriculture and Fisheries, and in default of agreement the cost of making such record shall be borne by the landlord and tenant in equal proportions.

8. *Repeal.*—The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of the Schedule.



9. *Commencement of Act.*] This Act shall come into operation on the first day of January one thousand nine hundred and nine.

10. *Short title.*] This Act may be cited as the Agricultural Holdings Act, 1906, and shall be read and construed and may be cited with the Agricultural Holdings (England) Acts, 1883 to 1900, and the Agricultural Holdings (Scotland) Acts, 1883 to 1900.

SCHEDULE.

[Section 8.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
40 & 41 Vict. c. 28.	The Game Laws Amendment Act (Scotland) Act, 1877.	The whole Act, except sections one, ten, and eleven, and the definition of sheriff in section three.
63 & 64 Vict. c. 50.	The Agricultural Holdings Act, 1900.	Sub-section (1) of section one. In section two, the words "by arbitration in accordance with the provisions (if any) in that behalf in any agreement between landlord and tenant, and in default of and subject to any such provisions"; the words "or arbitrators"; the words "An arbitration shall, unless the parties otherwise agree, be before a single arbitrator"; the words "or umpire"; and the words "subject to any provision contained in any agreement between landlord and tenant." Second Schedule, Part II.

CHAPTER 57.

[Education (Provision of Meals) Act, 1906.]

An Act to make provision for meals for children attending public elementary schools in England and Wales.

[21st December 1906.]

Be it enacted, &c. :

1. *Power of local education authority to aid school canteen committees in the provision of meals for children.*] A local education authority under Part III. of the Education Act, 1902 [2 Edw. 7, c. 42], may take such steps as they think fit for the provision of meals for children in attendance at any public elementary school in their area, and for that purpose—

- (a) may associate with themselves any committee on which the authority are represented, who will undertake to provide food for those children (in this Act called a "school canteen committee"); and
- (b) may aid that committee by furnishing such land, buildings, furniture, and apparatus, and such officers and servants as may be necessary for the organisation, preparation, and service of such meals; but, save as hereinafter provided, the authority shall not incur any expense in respect of the purchase of food to be supplied at such meals.

2. *Recovery of the cost of meals.*—(1) There shall be charged to the parent of every child in respect of every meal furnished to that child under this Act such an amount as may be determined by the

local education authority, and, in the event of payment not being made by the parent, it shall be the duty of the authority, unless they are satisfied that the parent is unable by reason of circumstances other than his own default to pay the amount, to require the payment of that amount from that parent, and any such amount may be recovered summarily as a civil debt.

(2) The local education authority shall pay over to the school canteen committee so much of any money paid to them by, or recovered from, any parent as may be determined by the authority to represent the cost of the food furnished by the committee to the child of that parent, less a reasonable deduction in respect of the expenses of recovering the same.

3. *Power of local education authority to defray the cost of food in certain cases.*] Where the local education authority resolve that any of the children attending an elementary school within their area are unable by reason of lack of food to take full advantage of the education provided for them, and have ascertained that funds other than public funds are not available or are insufficient in amount to defray the cost of food furnished in meals under this Act, they may apply to the Board of Education, and that Board may authorise them to spend out of the rates such sum as will meet the cost of the provision of such food, provided that the total amount expended by a local education authority for the purposes of this section in any local financial year shall not exceed the amount which would be produced by a rate of one halfpenny in the pound over the area of the authority, or, where the authority is a county council (other than the London County Council), over the area of the parish or parishes which in the opinion of the council are served by the school.

4. *Provisions as to disfranchisement.*] The provision of any meal under this Act to a child and the failure on the part of the parent to pay any amount demanded under this Act in respect of a meal shall not deprive the parent of any franchise, right, or privilege, or subject him to any disability.

5. *Application of Education Acts.*—(1) The powers of a local education authority under this Act shall be deemed to be powers of that authority under the Education Acts, 1870 to 1903, and the provisions of those Acts as to the manner in which the expenses of a local education authority are to be charged and defrayed, and as to borrowing, and as to the manner in which the amount which would be produced by any rate in the pound is to be estimated, shall apply to expenses incurred and money borrowed under this Act, and to the estimate of the produce of any rate in the pound for the purposes of this Act.

(2) Any expression to which a special meaning is attached in the Education Acts, 1870 to 1903, shall have the same meaning in this Act, except that for the purposes of this Act the expression "child" shall, notwithstanding anything in section forty-eight of the Elementary Education Act, 1876 [39 & 40 Vict. c. 79], include any child in attendance at a public elementary school.

6. *Provision as to teachers.*] No teacher seeking employment or employed in a public elementary school shall be required as part of his duties to supervise or assist, or to abstain from supervising or assisting, in the provision of meals, or in the collection of the cost thereof.

7. *Extent of Act.*] This Act shall not apply to Scotland.

8. *Short title.*] This Act may be cited as the Education (Provision of Meals) Act, 1906.

CHAPTER 58.

[Workmen's Compensation Act, 1906.]

An Act to consolidate and amend the law with respect to compensation to workmen for injuries suffered in the course of their employment.

[21st December 1906.]

Be it enacted, &c. :

1. *Liability of employers to workmen for injuries.*—(1) If in any employment personal injury by accident arising out of and in the course of the

employment is caused to a workman, his employer shall, subject as herein-after mentioned, be liable to pay compensation in accordance with the First Schedule to this Act.

(2) Provided that—

(a) The employer shall not be liable under this Act in respect of any injury which does not disable the workman for a period of at least one week from earning full wages at the work at which he was employed :

(b) When the injury was caused by the personal negligence or wilful act of the employer or of some person for whose act or default the employer is responsible, nothing in this Act shall affect any civil liability of the employer, but in that case the workman may, at his option, either claim compensation under this Act or take proceedings independently of this Act; but the employer shall not be liable to pay compensation for injury to a workman by accident arising out of and in the course of the employment both independently of and also under this Act, and shall not be liable to any proceedings independently of this Act, except in case of such personal negligence or wilful act as aforesaid :

(c) If it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall, unless the injury results in death or serious and permanent disablement, be disallowed.

(3) If any question arises in any proceedings under this Act as to the liability to pay compensation under this Act (including any question as to whether the person injured is a workman to whom this Act applies), or as to the amount or duration of compensation under this Act, the question, if not settled by agreement, shall, subject to the provisions of the First Schedule to this Act, be settled by arbitration, in accordance with the Second Schedule to this Act.

(4) If, within the time herein-after in this Act limited for taking proceedings, an action is brought to recover damages independently of this Act for injury caused by any accident, and it is determined in such action that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under the provisions of this Act, the action shall be dismissed; but the court in which the action is tried shall, if the plaintiff so choose, proceed to assess such compensation, but may deduct from such compensation all or part of the costs which, in its judgment, have been caused by the plaintiff bringing the action instead of proceeding under this Act. In any proceeding under this sub-section, when the court assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction for costs, and such certificate shall have the force and effect of an award under this Act.

(5) Nothing in this Act shall affect any proceedings for a fine under the enactments relating to mines, factories, or workshops, or the application of any such fine.

2. *Time for taking proceedings.*—(1) Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death :

Provided always that—

(a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be

prejudiced in his defence by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the United Kingdom, or other reasonable cause; and

- (b) the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the United Kingdom, or other reasonable cause.

(2) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

(3) The notice may be served by delivering the same at, or sending it by post in a registered letter addressed to, the residence or place of business of the person on whom it is to be served.

(4) Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to, the employer at the office, or, if there be more than one office, any one of the offices of such body.

3. *Contracting out.*—(1) If the Registrar of Friendly Societies, after taking steps to ascertain the views of the employer and workmen, certifies that any scheme of compensation, benefit, or insurance for the workmen of an employer in any employment, whether or not such scheme includes other employers and their workmen, provides scales of compensation not less favourable to the workmen and their dependants than the corresponding scales contained in this Act, and that, where the scheme provides for contributions by the workmen, the scheme confers benefits at least equivalent to those contributions, in addition to the benefits to which the workmen would have been entitled under this Act, and that a majority (to be ascertained by ballot) of the workmen to whom the scheme is applicable are in favour of such scheme, the employer may, whilst the certificate is in force, contract with any of his workmen that the provisions of the scheme shall be substituted for the provisions of this Act, and thereupon the employer shall be liable only in accordance with the scheme, but, save as aforesaid, this Act shall apply notwithstanding any contract to the contrary made after the commencement of this Act.

(2) The Registrar may give a certificate to expire at the end of a limited period of not less than five years, and may from time to time renew with or without modifications such a certificate to expire at the end of the period for which it is renewed.

(3) No scheme shall be so certified which contains an obligation upon the workmen to join the scheme as a condition of their hiring, or which does not contain provisions enabling a workman to withdraw from the scheme.

(4) If complaint is made to the Registrar of Friendly Societies by or on behalf of the workmen of any employer that the benefits conferred by any scheme no longer conform to the conditions stated in sub-section (1) of this section, or that the provisions of such scheme are being violated, or that the scheme is not being fairly administered, or that satisfactory reasons exist for revoking the certificate, the Registrar shall examine into the complaint, and, if satisfied that good cause exist for such complaint, shall, unless the cause of complaint is removed, revoke the certificate.

(5) When a certificate is revoked or expires, any moneys or securities held for the purpose of the scheme shall, after due provision has been made to discharge the liabilities already accrued, be distributed as may be arranged between the employer and workmen, or as may be determined by the Registrar of Friendly Societies in the event of a difference of opinion.

(6) Whenever a scheme has been certified as aforesaid, it shall be the duty of the employer

to answer all such inquiries and to furnish all such accounts in regard to the scheme as may be made or required by the Registrar of Friendly Societies.

(7) The Chief Registrar of Friendly Societies shall include in his annual report the particulars of the proceedings of the Registrar under this Act.

(8) The Chief Registrar of Friendly Societies may make regulations for the purpose of carrying this section into effect.

4. *Sub-contracting.*—(1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed: Provided that, where the contract relates to threshing, ploughing, or other agricultural work, and the contractor provides and uses machinery driven by mechanical power for the purpose of such work, he and he alone shall be liable under this Act to pay compensation to any workman employed by him on such work.

(2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled by arbitration under this Act.

(3) Nothing in this section shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises of which the principal has undertaken to execute the work or which are otherwise under his control or management.

5. *Provision as to cases of bankruptcy of employer.*—(1) Where any employer has entered into a contract with any insurers in respect of any liability under this Act to any workman, then, in the event of the employer becoming bankrupt, or making a composition or arrangement with his creditors, or if the employer is a company in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in the enactments relating to bankruptcy and the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the bankruptcy or liquidation.

(3) There shall be included among the debts which under section one of the Preferential Payments in Bankruptcy Act, 1888 [51 & 52 Vict. c. 62], and section four of the Preferential Payments in Bankruptcy (Ireland) Act, 1889 [52 & 53 Vict. c. 60], are in the distribution of the property of a bankrupt and in the distribution of the assets of a company being wound up to be paid in priority to all other debts, the amount, not exceeding in any individual case one hundred pounds, due in respect

of any compensation the liability whereof accrued before the date of the receiving order or the date of the commencement of the winding up, and those Acts and the Preferential Payments in Bankruptcy Amendment Act, 1897 [60 & 61 Vict. c. 19], shall have effect accordingly. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the First Schedule to this Act.

(4) In the case of the winding up of a company within the meaning of the Stannaries Act, 1887 [50 & 51 Vict. c. 43], such an amount as aforesaid, if the compensation is payable to a miner or the dependants of a miner, shall have the like priority as is conferred on wages of miners by section nine of that Act, and that section shall have effect accordingly.

(5) The provisions of this section with respect to preferences and priorities shall not apply where the bankrupt or the company being wound up has entered into such a contract with insurers as aforesaid.

(6) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

6. *Remedies both against employer and stranger.*—Where the injury for which compensation is payable under this Act was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

(1) The workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under this Act for such compensation, but shall not be entitled to recover both damages and compensation; and

(2) If the workman has recovered compensation under this Act, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the section of this Act relating to sub-contracting, shall be entitled to be indemnified by the person so liable to pay damages as aforesaid, and all questions as to the right to and amount of any such indemnity shall, in default of agreement, be settled by action, or, by the consent of the parties, by arbitration under this Act.

7. *Application of Act to seamen.*—(1) This Act shall apply to masters, seamen, and apprentices to the sea service and apprentices in the sea-fishing service, provided that such persons are workmen within the meaning of this Act, and are members of the crew of any ship registered in the United Kingdom, or of any other British ship or vessel of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in the United Kingdom, subject to the following modifications:—

(a) The notice of accident and the claim for compensation may, except where the person injured is the master, be served on the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident:

(b) In the case of the death of the master, seaman, or apprentice, the claim for compensation shall be made within six months after news of the death has been received by the claimant:

(c) Where an injured master, seaman, or apprentice is discharged or left behind in a British possession or in a foreign country, depositions respecting the circumstances and nature of the injury may be taken by any judge or magistrate in the British possession, and by any British consular officer in the foreign country, and if so taken shall be transmitted by the person by whom they are taken to



the Board of Trade, and such depositions or certified copies thereof shall in any proceedings for enforcing the claim be admissible in evidence as provided by sections six hundred and ninety-one and six hundred and ninety-five of the Merchant Shipping Act, 1894 [57 & 58 Vict. c. 60], and those sections shall apply accordingly:

- (d) In the case of the death of a master, seaman, or apprentice, leaving no dependants, no compensation shall be payable, if the owner of the ship is under the Merchant Shipping Act, 1894, liable to pay the expenses of burial;
- (e) The weekly payment shall not be payable in respect of the period during which the owner of the ship is, under the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or otherwise, liable to defray the expenses of maintenance of the injured master, seaman, or apprentice;
- (f) Any sum payable by way of compensation by the owner of a ship under this Act shall be paid in full notwithstanding anything in section five hundred and three of the Merchant Shipping Act, 1894 (which relates to the limitation of a shipowner's liability in certain cases of loss of life, injury, or damage), but the limitation on the owner's liability imposed by that section shall apply to the amount recoverable by way of indemnity under the section of this Act relating to remedies both against employer and stranger as if the indemnity were damages for loss of life or personal injury;
- (g) Sub-sections (2) and (3) of section one hundred and seventy-four of the Merchant Shipping Act, 1894 (which relates to the recovery of wages of seamen lost with their ship), shall apply as respects proceedings for the recovery of compensation by dependants of masters, seamen, and apprentices lost with their ship as they apply with respect to proceedings for the recovery of wages due to seamen and apprentices; and proceedings for the recovery of compensation shall in such a case be maintainable if the claim is made within eighteen months of the date at which the ship is deemed to have been lost with all hands:

(2) This Act shall not apply to such members of the crew of a fishing vessel as are remunerated by shares in the profits or the gross earnings of the working of such vessel.

(3) This section shall extend to pilots to whom Part X. of the Merchant Shipping Act, 1894, applies, as if a pilot when employed on any such ship as aforesaid were a seaman and a member of the crew.

#### 8. Application of Act to industrial diseases.]

##### —(1) Where—

- (i) the certifying surgeon appointed under the Factory and Workshop Act, 1901 [1 Edw. 7, c. 22], for the district in which a workman is employed certifies that the workman is suffering from a disease mentioned in the Third Schedule to this Act and is thereby disabled from earning full wages at the work at which he was employed; or
- (ii) a workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any such disease; or
- (iii) the death of a workman is caused by any such disease;

and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement or suspension, whether under one or more employers, he or his dependants shall be entitled to compensation under this Act as if the disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of that

employment, subject to the following modifications:—

- (a) The disablement or suspension shall be treated as the happening of the accident;
- (b) If it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable;
- (c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due:

##### Provided that—

(i) the workman or his dependants if so required shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation; and

(ii) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable; and

(iii) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this Act for settling the amount of the compensation;

- (d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable;
- (e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.
- (f) If an employer or a workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall in accordance with regulations made by the Secretary of State be referred to a medical referee, whose decision shall be final.

(2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the Third Schedule to this Act, and the disease contracted is the disease in the first column of that Schedule set opposite the description of the process, the disease, except where the certifying surgeon certifies that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

(3) The Secretary of State may make rules regulating the duties and fees of certifying and

other surgeons (including dentists) under this section.

(4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given: Provided that—

(a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine;

(b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

(5) In such cases, and subject to such conditions as the Secretary of State may direct, a medical practitioner appointed by the Secretary of State for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

(6) The Secretary of State may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

(7) Where, after inquiry held on the application of any employers or workmen engaged in any industry to which this section applies, it appears that a mutual trade insurance company or society for insuring against the risks under this section has been established for the industry, and that a majority of the employers engaged in that industry are insured against such risks in the company or society and that the company or society consents, the Secretary of State may, by Provisional Order, require all employers in that industry to insure in the company or society upon such terms and under such conditions and subject to such exceptions as may be set forth in the Order. Where such a company or society has been established, but is confined to employers in any particular locality or of any particular class, the Secretary of State may for the purposes of this provision treat the industry, as carried on by employers in that locality or of that class, as a separate industry.

(8) A Provisional Order made under this section shall be of no force whatever unless and until it is confirmed by Parliament, and if, while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against the Order, the Bill may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills, and any Act confirming any Provisional Order under this section may be repealed, altered, or amended by a Provisional Order made and confirmed in like manner.

(9) Any expenses incurred by the Secretary of State in respect of any such Order, Provisional Order, or confirming Bill shall be defrayed out of moneys provided by Parliament.

(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.

9. Application to workmen in employment of Crown.—(1) This Act shall not apply to persons in the naval or military service of the Crown, but otherwise shall apply to workmen employed by or under the Crown to whom this Act would apply if the employer were a private person:

Provided that in the case of a person employed in the private service of the Crown, the head of that department of the Royal Household in which he was employed at the time of the accident shall be deemed to be his employer.

(2) The Treasury may, by warrant laid before

Parliament, modify for the purposes of this Act their warrant made under section one of the Superannuation Act, 1887 [50 & 51 Vict. c. 67], and notwithstanding anything in that Act, or any such warrant, may frame schemes with a view to their being certified by the Registrar of Friendly Societies under this Act.

10. *Appointment and remuneration of medical referees and arbitrators.*—(1) The Secretary of State may appoint such legally qualified medical practitioners to be medical referees for the purposes of this Act as he may, with the sanction of the Treasury, determine, and the remuneration of, and other expenses incurred by, medical referees under this Act shall, subject to regulations made by the Treasury, be paid out of moneys provided by Parliament.

Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurer interested, he shall not act as medical referee in that case.

(2) The remuneration of an arbitrator appointed by a judge of county courts under the Second Schedule to this Act shall be paid out of moneys provided by Parliament in accordance with regulations made by the Treasury.

11. *Detention of ships.*—(1) If it is alleged that the owners of any ship are liable as such owners to pay compensation under this Act, and at any time that ship is found in any port or river of England or Ireland, or within three miles of the coast thereof, a judge of any court of record in England or Ireland may, upon its being shown to him by any person applying in accordance with the rules of the court that the owners are probably liable as such to pay such compensation, and that none of the owners reside in the United Kingdom, issue an order directed to any officer of customs or other officer named by the judge requiring him to detain the ship until such time as the owners, agent, master, or consignee thereof have paid such compensation, or have given security, to be approved by the judge, to abide the event of any proceedings that may be instituted to recover such compensation and to pay such compensation and costs as may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain the ship accordingly.

(2) In any legal proceeding to recover such compensation, the person giving security shall be made defendant, and the production of the order of the judge, made in relation to the security, shall be conclusive evidence of the liability of the defendant to the proceeding.

(3) Section six hundred and ninety-two of the Merchant Shipping Act, 1894 [57 & 58 Vict. c. 60], shall apply to the detention of a ship under this Act as it applies to the detention of a ship under that Act, and, if the owner of a ship is a corporation, it shall for the purposes of this section be deemed to reside in the United Kingdom if it has an office in the United Kingdom at which service of writs can be effected.

12. *Returns as to compensation.*—(1) Every employer in any industry to which the Secretary of State may direct that this section shall apply shall, on or before such day in every year as the Secretary of State may direct, send to the Secretary of State a correct return specifying the number of injuries in respect of which compensation has been paid by him under this Act during the previous year, and the amount of such compensation, together with such other particulars as to the compensation as the Secretary of State may direct, and in default of complying with this section shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(2) Any regulations made by the Secretary of State containing such directions as aforesaid be laid before both Houses of Parliament as soon as may be after they are made.

13. *Definitions.*—In this Act, unless the context otherwise requires,—

"Employer" includes any body of persons corporate or unincorporate and the legal personal representative of a deceased employer, and, where the services of a work-

man are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Act, be deemed to continue to be the employer of the workman whilst he is working for that other person;

"Workman" does not include any person employed otherwise than by way of manual labour whose remuneration exceeds two hundred and fifty pounds a year, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, or a member of a police force, or an outworker, or a member of the employer's family dwelling in his house, but, save as aforesaid, means any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing; Any reference to a workman who has been injured shall, where the workman is dead, include a reference to his legal personal representative or to his dependants or other person to whom or for whose benefit compensation is payable;

"Dependants" means such of the members of the workman's family as were wholly or in part dependent upon the earnings of the workman at the time of his death, or would but for the incapacity due to the accident have been so dependent, and where the workman, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon his earnings, or, being an illegitimate child, leaves a parent or grandparent so dependent upon his earnings, shall include such an illegitimate child and parent or grandparent respectively;

"Member of a family" means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grandson, granddaughter, step-son, step-daughter, brother, sister, half-brother, half-sister;

"Ship," "vessel," "seaman," and "port" have the same meanings as in the Merchant Shipping Act, 1894;

"Manager," in relation to a ship, means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner;

"Police force" means a police force to which the Police Act, 1890 [53 & 54 Vict. c. 45], or the Police (Scotland) Act, 1890 [53 & 54 Vict. c. 67], applies, the City of London Police Force, the Royal Irish Constabulary, and the Dublin Metropolitan Police Force;

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this Act, be treated as the trade or business of the authority;

"County court," "judge of the county court," "registrar of the county court," "plaintiff," and "rules of court," as respects Scotland, mean respectively sheriff court, sheriff, sheriff clerk, pursuer, and act of sederunt.

14. *Special provisions as to Scotland.*—In Scotland, where a workman raises an action against his employer independently of this Act in respect of any injury caused by accident arising out of and in the course of the employment, the action, if raised in the sheriff court and concluding for damages under the Employers' Liability Act, 1880 [43 & 44 Vict. c. 42],

or alternatively at common law or under the Employers' Liability Act, 1880, shall, notwithstanding anything contained in that Act, not be removed under that Act or otherwise to the Court of Session, nor shall it be appealed to that court otherwise than by appeal on a question of law; and for the purposes of such appeal the provisions of the Second Schedule to this Act in regard to an appeal from the decision of the sheriff on any question of law determined by him as arbitrator under this Act shall apply.

15. *Provisions as to existing contracts and schemes.*—(1) Any contract (other than a contract substituting the provisions of a scheme certified under the Workmen's Compensation Act, 1897 [60 & 61 Vict. c. 37], for the provisions of that Act existing at the commencement of this Act, whereby a workman relinquishes any right to compensation from the employer for personal injury arising out of and in the course of his employment, shall not, for the purposes of this Act, be deemed to continue after the time at which the workman's contract of service would determine if notice of the determination thereof were given at the commencement of this Act.

(2) Every scheme under the Workmen's Compensation Act, 1897, in force at the commencement of this Act shall, if re-certified by the Registrar of Friendly Societies, have effect as if it were a scheme under this Act.

(3) The Registrar shall re-certify any such scheme if it is proved to his satisfaction that the scheme conforms, or has been so modified as to conform, with the provisions of this Act as to schemes.

(4) If any such scheme has not been so re-certified before the expiration of six months from the commencement of this Act, the certificate thereof shall be revoked.

16. *Commencement and repeal.*—(1) This Act shall come into operation on the first day of July nineteen hundred and seven, but, except so far as it relates to references to medical referees, and proceedings consequential thereon, shall not apply in any case where the accident happened before the commencement of this Act.

(2) The Workmen's Compensation Acts, 1897 and 1900 [63 & 64 Vict. c. 22], are hereby repealed, but shall continue to apply to cases where the accident happened before the commencement of this Act, except to the extent to which this Act applies to those cases.

17. *Short title.*—This Act may be cited as the Workmen's Compensation Act, 1906.

## SCHEDULES.

### FIRST SCHEDULE.

#### [Section 1.]

#### SCALE AND CONDITIONS OF COMPENSATION.

(1) The amount of compensation under this Act shall be—

(a) where death results from the injury—

(i) if the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of one hundred and fifty pounds, whichever of those sums is the larger, but not exceeding in any case three hundred pounds, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years shall be deemed to be one hundred and fifty-six times his average weekly earnings during the period of his actual employment under the said employer;

(ii) if the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the fore-



going provisions, as may be agreed upon, or, in default of agreement, may be determined, on arbitration under this Act, to be reasonable and proportionate to the injury to the said dependants; and

(iii) if he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding ten pounds;

(b) where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months, if he has been so long employed, but if not then for any less period during which he has been in the employment of the same employer, such weekly payment not to exceed one pound:

Provided that—

(a) if the incapacity lasts less than two weeks no compensation shall be payable in respect of the first week; and  
(b) as respects the weekly payments during total incapacity of a workman who is under twenty-one years of age at the date of the injury, and whose average weekly earnings are less than twenty shillings, one hundred per cent. shall be substituted for fifty per cent. of his average weekly earnings, but the weekly payment shall in no case exceed ten shillings.

(2) For the purposes of the provisions of this schedule relating to "earnings" and "average weekly earnings" of a workman, the following rules shall be observed:—

(a) average weekly earnings shall be computed in such manner as is best calculated to give the rate per week at which the workman was being remunerated. Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer, or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to the average weekly amount which, during the twelve months previous to the accident, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district;

(b) where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his average weekly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident;

(c) employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause;

(d) where the employer has been accustomed to pay to the workman a sum to cover any special expenses entailed on him by the nature of his employment, the sum so paid shall not be reckoned as part of the earnings.

(3) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that

difference as under the circumstances of the case may appear proper.

(4) Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

(5) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be paid into the county court, and any sum so paid into court shall, subject to rules of court, and the provisions of this schedule, be invested, applied, or otherwise dealt with by the court in such manner as the court in its discretion thinks fit for the benefit of the persons entitled thereto under this Act, and the receipt of the registrar of the court shall be a sufficient discharge in respect of the amount paid in:

Provided that, if so agreed, the payment in case of death shall, if the workman leaves no dependants, be made to his legal personal representative, or, if he has no such representative, to the person to whom the expenses of medical attendance and burial are due.

(6) Rules of court may provide for the transfer of money paid into court under this Act from one court to another, whether or not the court from which it is to be transferred is in the same part of the United Kingdom as the court to which it is to be transferred.

(7) Where a weekly payment is payable under this Act to a person under any legal disability, a county court may, on application being made in accordance with rules of court, order that the weekly payment be paid during the disability into court, and the provisions of this schedule with respect to sums required by this schedule to be paid into court shall apply to sums paid into court in pursuance of any such order.

(8) Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under this Act, or, if not so settled before payment into court under this schedule, shall be settled by the county court, and the amount payable to each dependant shall be settled by arbitration under this Act, or, if not so settled before payment into court under this schedule, by the county court. Where there are both total and partial dependants nothing in this schedule shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(9) Where, on application being made in accordance with rules of court, it appears to a county court that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of the court or an award as to the apportionment amongst the several dependants of any sum paid as compensation, or as to the manner in which any sum payable to any such dependant is to be invested, applied, or otherwise dealt with, ought to be varied, the court may make such order for the variation of the former order or the award, as in the circumstances of the case the court may think just.

(10) Any sum which under this schedule is ordered to be invested, may be invested in whole or in part in the Post Office Savings Bank by the registrar of the county court in his name as registrar.

(11) Any sum to be so invested may be invested in the purchase of an annuity from the National Debt Commissioners through the Post Office Savings Bank, or be accepted by the Postmaster-General as a deposit in the name of the registrar as such, and the provisions of any statute or regulations respecting the limits of deposits in savings banks, and the declaration to be made by the depositor, shall not apply to such sum.

(12) No part of any money invested in the name of the registrar of any county court in the Post Office Savings Bank under this Act shall be paid out, except upon authority addressed to the Post-

master-General by the Treasury or, subject to regulations of the Treasury, by the judge or registrar of the county court.

(13) Any person deriving any benefit from any moneys invested in a post office savings bank under the provisions of this Act may, nevertheless, open an account in a post office savings bank or in any other savings bank in his own name without being liable to any penalties imposed by any statute or regulations in respect of the opening of accounts in two savings banks, or of two accounts in the same savings bank.

(14) Any workman receiving weekly payments under this Act shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(15) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (14) of this schedule otherwise than in accordance with the regulations made by the Secretary of State, or at more frequent intervals than may be prescribed by those regulations.

Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the registrar of a county court, on application being made to the court by both parties, may, on payment by the applicants of such fee not exceeding one pound as may be prescribed, refer the matter to a medical referee.

The medical referee to whom the matter is so referred shall, in accordance with regulations made by the Secretary of State, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the Secretary of State, apply as if the question were a question as to the condition of the workman.

If a workman, on being required so to do, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation, or, in the case of a workman in receipt of a weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

Rules of court may be made for prescribing the manner in which documents are to be furnished or served and applications made under this paragraph and the forms to be used for those purposes and, subject to the consent of the Treasury, as to the fee to be paid under this paragraph.

(16) Any weekly payment may be reviewed at the request either of the employer or of the workman, and on such review may be ended, diminished, or increased, subject to the maximum above provided, and the amount of payment shall, in default of agreement, be settled by arbitration under this Act:

Provided that where the workman was at the date of the accident under twenty-one years of age and the review takes place more than twelve months after the accident, the amount of the weekly payment may be increased to any amount not exceeding fifty per cent. of the weekly sum which the workman would probably have been earning at the date of the review if he had re-

maintained uninjured, but not in any case exceeding one pound.

(17) Where any weekly payment has been continued for not less than six months, the liability therefor may, on application by or on behalf of the employer, be redeemed by the payment of a lump sum of such an amount as, where the incapacity is permanent, would, if invested in the purchase of an immediate life annuity from the National Debt Commissioners through the Post Office Savings Bank, purchase an annuity for the workman equal to seventy-five per cent. of the annual value of the weekly payment, and as in any other case may be settled by arbitration under this Act, and such lump sum may be ordered by the committee or arbitrator or judge of the county court to be invested or otherwise applied for the benefit of the person entitled thereto: Provided that nothing in this paragraph shall be construed as preventing agreements being made for the redemption of a weekly payment by a lump sum.

(18) If a workman receiving a weekly payment ceases to reside in the United Kingdom, he shall thereupon cease to be entitled to receive any weekly payment, unless the medical referee certifies that the incapacity resulting from the injury is likely to be of a permanent nature. If the medical referee so certifies, the workman shall be entitled to receive quarterly the amount of the weekly payments accruing due during the preceding quarter so long as he proves, in such manner and at such intervals as may be prescribed by rules of court, his identity and the continuance of the incapacity in respect of which the weekly payment is payable.

(19) A weekly payment, or a sum paid by way of redemption thereof, shall not be capable of being assigned, charged, or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against the same.

(20) Where under this schedule a right to compensation is suspended no compensation shall be payable in respect of the period of suspension.

(21) Where a scheme certified under this Act provides for payment of compensation by a friendly society, the provisions of the proviso to the first sub-section of section eight, section sixteen, and section forty-one of the Friendly Societies Act, 1896 [59 & 60 Vict. c. 25], shall not apply to such society in respect of such scheme.

(22) In the application of this Act to Ireland the provisions of the County Officers and Courts (Ireland) Act, 1877 [41 & 42 Vict. c. 56], with respect to money deposited in the Post Office Savings Bank under that Act shall apply to money invested in the Post Office Savings Bank under this Act.

## SECOND SCHEDULE.

[Sections 1, 14.]  
ARBITRATION, &c.

(1) For the purpose of settling any matter which under this Act is to be settled by arbitration, if any committee, representative of an employer and his workmen, exists with power to settle matters under this Act in the case of the employer and workmen, the matter shall, unless either party objects by notice in writing sent to the other party before the committee meet to consider the matter, be settled by the arbitration of such committee, or be referred by them in their discretion to arbitration as herein-after provided.

(2) If either party so objects, or there is no such committee, or the committee so refers the matter or fails to settle the matter within six months from the date of the claim, the matter shall be settled by a single arbitrator agreed on by the parties, or in the absence of agreement by the judge of the county court, according to the procedure prescribed by rules of court.

(3) In England the matter, instead of being settled by the judge of the county court, may, if the Lord Chancellor so authorises, be settled according to the like procedure by a single arbitrator appointed by that judge, and the arbitrator so appointed shall, for the purposes of this Act, have all the powers of that judge.

(4) The Arbitration Act, 1889 [52 & 53 Vict. c. 49], shall not apply to any arbitration under this Act; but a committee or an arbitrator may, if they or he think fit, submit any question of law for the decision of the judge of the county court, and the decision of the judge on any question of law, either on such submission, or in any case where he himself settles the matter under this Act, or where he gives any decision or makes any order under this Act, shall be final, unless within the time and in accordance with the conditions prescribed by rules of the Supreme Court either party appeals to the Court of Appeal; and the judge of the county court, or the arbitrator appointed by him, shall, for the purposes of proceedings under this Act, have the same powers of procuring the attendance of witnesses and the production of documents as if the proceedings were an action in the county court.

(5) A judge of county courts may, if he thinks fit, summon a medical referee to sit with him as an assessor.

(6) Rules of court may make provision for the appearance in any arbitration under this Act of any party by some other person.

(7) The costs of and incidental to the arbitration and proceedings connected therewith shall be in the discretion of the committee, arbitrator, or judge of the county court, subject as respects such judge and an arbitrator appointed by him to rules of court. The costs, whether before a committee or an arbitrator or in the county court, shall not exceed the limit prescribed by rules of court, and shall be taxed in manner prescribed by those rules, and such taxation may be reviewed by the judge of the county court.

(8) In the case of the death, or refusal or inability to act, of an arbitrator, the judge of the county court may, on the application of any party, appoint a new arbitrator.

(9) Where the amount of compensation under this Act has been ascertained, or any weekly payment varied, or any other matter decided under this Act, either by a committee or by an arbitrator or by agreement, a memorandum thereof shall be sent, in manner prescribed by rules of court, by the committee or arbitrator, or by any party interested, to the registrar of the county court who shall, subject to such rules, on being satisfied as to its genuineness, record such memorandum in a special register without fee, and thereupon the memorandum shall for all purposes be enforceable as a county court judgment.

Provided that—

(a) no such memorandum shall be recorded before seven days after the despatch by the registrar of notice to the parties interested; and

(b) Where a workman seeks to record a memorandum of agreement between his employer and himself for the payment of compensation under this Act and the employer, in accordance with rules of court, proves that the workman has in fact returned to work and is earning the same wages as he did before the accident, and objects to the recording of such memorandum, the memorandum shall only be recorded, if at all, on such terms as the judge of the county court, under the circumstances, may think just; and

(c) the judge of the county court may at any time rectify the register; and

(d) where it appears to the registrar of the county court, on any information which he considers sufficient, that an agreement as to the redemption of a weekly payment by a lump sum, or an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence, or other improper means, he may refuse to record the memorandum of the agreement sent to him for registration, and refer the matter to the judge who shall, in accordance with rules of court, make such order (including an order as to any sum already paid under the agree-

ment) as under the circumstances he may think just; and

(e) the judge may, within six months after a memorandum of an agreement as to the redemption of a weekly payment by a lump sum, or of an agreement as to the amount of compensation payable to a person under any legal disability, or to dependants, has been recorded in the register, order that the record be removed from the register on proof to his satisfaction that the agreement was obtained by fraud or undue influence or other improper means, and may make such order (including an order as to any sum already paid under the agreement) as under the circumstances he may think just.

(10) An agreement as to the redemption of a weekly payment by a lump sum if not registered in accordance with this Act shall not, nor shall the payment of the sum payable under the agreement, exempt the person by whom the weekly payment is payable from liability to continue to make that weekly payment, and an agreement as to the amount of compensation to be paid to a person under a legal disability or to dependants, if not so registered, shall not nor shall the payment of the sum payable under the agreement, exempt the person by whom the compensation is payable from liability to pay compensation, unless, in either case, he proves that the failure to register was not due to any neglect or default on his part.

(11) Where any matter under this Act is to be done in a county court, or by, to, or before the judge or registrar of a county court, then, unless the contrary intention appears, the same shall, subject to rules of court, be done in, or by, to, or before the judge or registrar of, the county court of the district in which all the parties concerned reside, or if they reside in different districts, the district prescribed by rules of court, without prejudice to any transfer in manner provided by rules of court.

(12) The duty of a judge of county courts under this Act, or in England of an arbitrator appointed by him, shall, subject to rules of court, be part of the duties of the county court, and the officers of the court shall act accordingly, and rules of court may be made both for any purpose for which this Act authorises rules of court to be made, and also generally for carrying into effect this Act so far as it affects the county court, or an arbitrator appointed by a judge of the county court, and proceedings in the county court or before any such arbitrator, and such rules may, in England, be made by the five judges of county courts appointed for the making of rules under section one hundred and sixty-four of the County Courts Act, 1888, and when allowed by the Lord Chancellor, as provided by that section, shall have full effect without any further consent.

(13) No court fee, except such as may be prescribed under paragraph (15) of the First Schedule to this Act, shall be payable by any party in respect of any proceedings by or against a workman under this Act in the court prior to the award.

(14) Any sum awarded as compensation shall, unless paid into court under this Act, be paid on the receipt of the person to whom it is payable under any agreement or award, and the solicitor or agent of a person claiming compensation under this Act shall not be entitled to recover from him any costs in respect of any proceedings in an arbitration under this Act, or to claim a lien in respect of such costs on, or deduct such costs from, the sum awarded or agreed as compensation, except such sum as may be awarded by the committee, the arbitrator, or the judge of the county court, on an application made either by the person claiming compensation, or by his solicitor or agent, to determine the amount of costs to be paid to the solicitor or agent, such sum to be awarded subject to taxation and to the scale of costs prescribed by rules of court.

(15) Any committee, arbitrator, or judge may, subject to regulations made by the Secretary of State and the Treasury, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

(16) The Secretary of State may, by order,



either unconditionally or subject to such conditions or modifications as he may think fit, confer on any committee representative of an employer and his workmen, as respects any matter in which the committee act as arbitrators, or which is settled by agreement submitted to and approved by the committee, all or any of the powers conferred by this Act exclusively on county courts or judges of county courts, and may by the order provide how and to whom the compensation money is to be paid in cases where, but for the order, the money would be required to be paid into court, and the order may exclude from the operation of provisions (d) and (e) of paragraph (9) of this Schedule agreements submitted to and approved by the committee, and may contain such incidental, consequential, or supplemental provisions as may appear to the Secretary of State to be necessary or proper for the purposes of the order.

(17) In the application of this Schedule to Scotland—

(a) "County court judgment" as used in paragraph (9) of this Schedule means a recorded decree arbitral;

(b) Any application to the sheriff as arbitrator shall be heard, tried, and determined summarily in the manner provided by section fifty-two of the Sheriff Courts (Scotland) Act, 1876 [39 & 40 Vict. c. 70], save only that parties may be represented by any person authorised in writing to

appear for them and subject to the declaration that it shall be competent to either party within the time and in accordance with the conditions prescribed by act of sederunt to require the sheriff to state a case on any question of law determined by him, and his decision thereon in such case may be submitted to either division of the Court of Session, who may hear and determine the same and remit to the sheriff with instruction as to the judgment to be pronounced, and an appeal shall lie from either of such divisions to the House of Lords:

(c) Paragraphs (3), (4), and (8) shall not apply.

(18) In the application of this Schedule to Ireland the expression "judge of the county court" shall include the recorder of any city or town, and an appeal shall lie from the Court of Appeal to the House of Lords.

**THIRD SCHEDULE.**

[Section 8.]

Description of Disease.	Description of Process.
Anthrax ... ..	Handling of wool, hair, bristles, hides, and skins

Description of Disease.	Description of Process.
Lead poisoning or its sequelæ	Any process involving the use of lead or its preparations or compounds
Mercury poisoning or its sequelæ	Any process involving the use of mercury or its preparations or compounds
Phosphorus poisoning or its sequelæ	Any process involving the use of phosphorus or its preparations or compounds
Arsenic poisoning or its sequelæ	Any process involving the use of arsenic or its preparations or compounds
Ankylostomiasis ...	Mining

Where regulations or special rules made under any Act of Parliament for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this schedule to that industry, the expression "process" shall, unless the Secretary of State otherwise directs, include only the processes so specified.

**LIST OF PUBLIC ACTS.**

Passed after the Adjournment of August 4th, 1906 (6 Edward VII.).

Cap.	Title.	Statutes page.	Cap.	Title.	Statutes page.
56	Agricultural Holdings ... ..	24	48	Merchant Shipping ... ..	9
44	Burial ... ..	8	50	National Galleries (Scotland) ... ..	19
49	Census of Production ... ..	18	53	Notice of Accidents ... ..	21
57	Education (Provision of Meals) ... ..	25	55	Public Trustee ... ..	21
51	Expiring Laws Continuance ... ..	19	46	Recorders, Stipendiary Magistrates & Clerks of the Peace	8
39	Intoxicating Liquors (Ireland) ... ..	1	45	Removal of Offensive Matter ... ..	8
52	Land Tax Commissioners ... ..	21	43	Street Betting ... ..	8
42	Licensing ... ..	7	54	Town Tenants (Ireland) ... ..	21
41	Marine Insurance ... ..	2	47	Trade Disputes ... ..	8
40	Marriage with Foreigners ... ..	1	58	Workmen's Compensation ... ..	25

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# STATUTES.

7 EDWARD 7, 1907.

## CHAPTER I.

[Consolidated Fund (No. 1) Act, 1907.]

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March one thousand nine hundred and seven and one thousand nine hundred and eight.

[22nd March 1907.]

## CHAPTER 2.

Army (Annual) Act, 1907.

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army.

[29th April 1907.]

## CHAPTER 3.

[Irish Tobacco Act, 1907.]

An Act to repeal the Law which prohibits the Growing of Tobacco in Ireland.

[4th July 1907.]

## CHAPTER 4.

[Destructive Insects and Pests Act, 1907.]

An Act to extend the Destructive Insects Act, 1877, to all Pests destructive to Crops, Trees, or Bushes.

[4th July 1907.]

Be it enacted, &c.:

1. *Extension of 40 & 41 Vict. c. 68 to all pests.*—

(1) The Board of Agriculture and Fisheries may, for the purpose of preventing the introduction into Great Britain of any insect, fungus, or other pest destructive to agricultural or horticultural crops or to trees or bushes, and for preventing the spreading in Great Britain of any such insect, fungus, or other pest, exercise all such powers as may be exercised by the Board in relation to the Colorado beetle under the Destructive Insects Act, 1877; and that Act shall apply accordingly as if in that Act the expression "insect" included all such insects, fungi, and other pests, and the expression "crop" included all such crops, trees, and bushes:

Provided that the Board shall not make an order directing the payment of compensation by any local authority for the removal or destruction of any crop or any trees or bushes unless the local authority consent to make the payment.

(2) Section one of the Rules Publication Act, 1893 [56 & 57 Vict. c. 66], shall not apply to any order made under the Destructive Insects Act, 1877, or this Act.

(3) This Act shall apply to Ireland as if Ireland were named therein instead of Great Britain and with the substitution of the Department of Agriculture and Technical Instruction for Ireland for the Board of Agriculture and Fisheries.

2. *Short title.* This Act may be cited as the Destructive Insects and Pests Act, 1907; and the Destructive Insects Act, 1877, and this Act may be cited together as the Destructive Insects and Pests Acts, 1877 and 1907.

## CHAPTER 5.

[Injured Animals Act, 1907.]

An Act to re-enact with amendments the Injured Animals Act, 1894.

[26th July 1907.]

Be it enacted, &c.:

1. *Slaughter of injured animals by or by order of*

*police.*—(1) If a police constable finds any animal so diseased or so severely injured or in such a physical condition that it cannot without cruelty be removed, he shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon a duly registered veterinary surgeon, if any such veterinary surgeon resides within a reasonable distance, and, if it appears by the certificate of such veterinary surgeon that the animal is mortally injured or so severely injured or so diseased or in such a physical condition that it is cruel to keep it alive, it shall be lawful for the police constable, without the consent of the owner, to slaughter the animal or cause it to be slaughtered with such instruments or appliances, and with such precautions, and in such manner, as to inflict as little pain and suffering as practicable, and, if the slaughter takes place in a street or public place, to remove the carcass or cause it to be removed therefrom.

(2) Any reasonable expense which may be incurred by any constable in carrying out the provisions of this Act may be recovered from the owner summarily as a civil debt, and, subject thereto, any such expense shall be defrayed out of the fund from which the expenses of the police are payable in the area in which the animal is found.

2. *Definition of animal.* For the purposes of this Act the word "animal" means any horse, mule, ass, bull, cow, ox, heifer, calf, sheep, goat, or swine.

3. *Short title and repeal.*—(1) This Act may be cited for all purposes as the Injured Animals Act, 1907.

(2) The Injured Animals Act, 1894 [57 & 58 Vict. c. 22], is hereby repealed.

## CHAPTER 6.

[Telegraph (Money) Act, 1907.]

An Act to provide for raising further Money for the purpose of the Telegraph Acts, 1863 to 1906.

[2nd August 1907.]

## CHAPTER 7.

[Australian States Constitution Act, 1907]

An Act to amend the Law relating to the Reservation for His Majesty's pleasure of Bills passed by the Legislatures of the States forming part of the Commonwealth of Australia, and to confirm certain Acts passed by those Legislatures.

[2nd August 1907.]

Be it enacted, &c.:

1. *Reservation of Bills.*—(1) There shall be reserved, for the signification of His Majesty's pleasure thereon, every Bill passed by the Legislature of any State forming part of the Commonwealth of Australia which—

(a) alters the constitution of the Legislature of the State or of either House thereof; or

(b) affects the salary of the Governor of the State; or

(c) is, under any Act of the Legislature of the State passed after the passing of this Act, or under any provision contained in the Bill itself, required to be reserved;

but, save as aforesaid, it shall not be necessary to so reserve any Bill passed by any such Legislature: Provided that—

(a) nothing in this Act shall affect the reservation of Bills in accordance with any instructions given to the Governor of the State by His Majesty; and

(b) it shall not be necessary to reserve a Bill for a temporary law which the Governor expressly declares necessary to be assented to forthwith by reason of some public and pressing emergency; and

(c) it shall not be necessary to reserve any Bill if the Governor declares that he withholds His Majesty's assent, or if he has previously received instructions from His Majesty to assent and does assent accordingly to the Bill.

(2) For the purposes of this section a Bill shall not be treated as a Bill altering the constitution of the Legislature of a State or of either House thereof by reason only that the Bill—

(a) creates, alters, or affects any province, district, or town, or division of a province, district, or town, which returns one or more members to either House of the Legislature; or

(b) fixes or alters the number of members to be elected for any such province, district, or town, or division of a province, district, or town; or

(c) increases or decreases the total number of elective members of either House of the Legislature; or

(d) concerns the election of the elective members of the Legislature, or either House thereof, or the qualifications of electors or elective members.

(3) Section thirty-three of the Australian Constitutions Act, 1842 [5 & 6 Vict. c. 75], shall apply to Bills reserved under this Act in like manner as it applies to Bills reserved under that Act with the substitution of references to a State forming part of the Commonwealth of Australia for references to the colony of New South Wales, and of references to both Houses of the Legislature of the State for references to the Legislative Council.

(4) So much of any Act of Parliament or Order in Council as requires any Bill passed by the Legislature of any such State to be reserved for the signification of His Majesty's pleasure thereon, or to be laid before the Houses of Parliament before His Majesty's pleasure is signified, and, in particular, the enactments mentioned in the Schedule to this Act, to the extent specified in the third column of that Schedule, shall be repealed both as originally enacted and as incorporated in or applied by any other Act of Parliament or any Order in Council or letters patent.

2. *Confirmation of certain Australian Acts.*—(1) Any Act passed by the Legislature of any such State, and assented to in the name of His Majesty by the Governor and not disallowed by His Majesty before the passing of this Act, shall, notwithstanding that the Bill for the Act ought to have been but was not reserved for the signification of His Majesty's pleasure thereon, and notwithstanding that it ought to have been but was not duly laid before both Houses of Parliament, be deemed to be and to have been as from the date of that assent as valid as if the Bill had been so reserved and as if it had been laid before both Houses of Parliament, and as if His Majesty's assent to the Bill had been duly given and signified in the State at the date aforesaid.

(2) For the purposes of this section references to Acts passed by the Legislature of a State shall be construed as including references to Acts passed before the establishment of the Commonwealth of Australia by the Legislature of any colony which now forms part of that Commonwealth, and references to His Majesty shall be construed as including references to Her late Majesty.

3. *Short title.*] This Act may be cited as the Australian States Constitution Act, 1907.

## SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Vict. c. 76.	The Australian Constitutions Act, 1842.	Section thirty-one, from "and all Bills altering" to the end of the section.
7 & 8 Vict. c. 74.	The Australian Constitutions Act, 1844.	Sections seven and eight.
13 & 14 Vict. c. 59.	The Australian Constitutions Act, 1850.	In section twelve, the words "and the reservation of Bills for the signification of Her Majesty's pleasure thereon, and the Bills so reserved." Section thirty-two, from "Provided always" to the end of the section. Section thirty-three.
18 & 19 Vict. c. 54.	The New South Wales Constitution Act, 1855.	In section three, the words "and the reservation of Bills for the signification of Her Majesty's pleasure thereon."
18 & 19 Vict. c. 55.	The Victoria Constitution Act, 1855.	In section three, the words "and the reservation of Bills for the signification of Her Majesty's pleasure thereon."
25 & 26 Vict. c. 11.	The Australian Constitutions Act, 1862.	Section two.
53 & 54 Vict. c. 26.	The Western Australia Constitution Act, 1890.	In section two, the words "and the reservation of Bills for the signification of Her Majesty's pleasure thereon."

## CHAPTER 8.

[*Assay of Imported Watch-Cases (Existing Stocks Exemption) Act, 1907.*]

An Act to exempt from Assay Foreign Watch-Cases imported into the United Kingdom before the first day of June nineteen hundred and seven. [2nd August 1907.]

## CHAPTER 9.

[*Territorial and Reserve Forces Act, 1907.*]

An Act to provide for the reorganisation of His Majesty's military forces and for that purpose to authorise the establishment of County Associations, and the raising and maintenance of a Territorial Force, and for amending the Acts relating to the Reserve Forces. [2nd August 1907.]

Be it enacted, &c.:

## PART I.

## COUNTY ASSOCIATIONS.

1. *Establishment of associations.*—(1) For the purposes of the reorganisation under this Act of His Majesty's military forces other than the regulars and their reserves, and of the administration of those forces when so reorganised, and for such other purposes as are mentioned in this Act, an association may be established for any county in the United Kingdom with such powers and duties in connection with the purposes aforesaid as may be conferred on it by or under this Act.

(2) Associations shall be constituted, and the members thereof shall be appointed and hold office in accordance with schemes to be made by the Army Council.

(3) Every such scheme shall provide—

(a) For the date of the establishment of the association:

(b) For the incorporation of the association by an appropriate name, with power to hold land for the purposes of this Act without licence in mortmain:

(c) For constituting the lieutenant of the county, or failing him such other person as the Army Council may think fit, president of the association:

(d) For the appointment of such number of officers representative of all arms and branches of the Territorial Force raised under this Act within the county (not being less than one-half of the whole number of the association) as may be specified in the scheme:

(e) For the appointment by the Army Council, where it appears desirable, and after consultation with, and on the recommendation of, the authorities to be represented, of representatives of county and county borough councils and universities wholly or partly within the county:

(f) For the appointment of such number of co-opted members as the scheme may prescribe, including, if thought desirable, representatives of the interests of employers and workmen:

(g) For the appointment by the Army Council during the first three years after the passing of this Act, and subsequently for the election of a chairman and vice-chairman by the association, and for defining their powers and duties:

(h) For the mode of appointment, term of office, and rotation of members of the association, and the filling of casual vacancies:

(i) For the appointment by the association, subject to the approval of the Army Council, of a secretary and other officers of the association, and the accountability of such officers, and for the provision of offices:

(j) For the procedure to be adopted, including the appointment of committees and the delegation to committees of any of the powers or duties of the association:

(k) For enabling such general officers of any part of His Majesty's forces, and not being members of the association, as may be specified in the scheme, or officers deputed by them, to attend the meetings of the association and to speak, but not to vote:

(l) For dividing the county, where on account of its size or population it seems desirable to do so, into two or more parts, and for constituting sub-associations for the several parts, and for apportioning amongst the several sub-associations all or any of the powers and duties of the association, and regulating the relations of sub-associations to the association and to one another.

(4) A scheme may contain any consequential, supplemental, or transitory provisions which may appear to be necessary or proper for the purposes of the scheme, and also as respects any matter for which provision may be made by regulations under this Act and for which it appears desirable to make special provision affecting the association established by the scheme.

(5) All schemes made in pursuance of this Part of this Act shall be laid before both Houses of Parliament.

(6) Until an Order in Council has been made under this Act for transferring to the Territorial Force the units of the Yeomanry and Volunteers of any county, references in this section to the Territorial Force shall as respects that county be construed as including references to the Yeomanry and Volunteers.

2. *Powers and duties of associations.*—(1) It shall be the duty of an association when constituted to make itself acquainted with and conform to the plan of the Army Council for the organisation of the Territorial Force within the county, and to ascertain the military resources and capabilities of the county, and to render

advice and assistance to the Army Council and to such officers as the Army Council may direct, and an association shall have, exercise, and discharge such powers and duties connected with the organisation and administration of His Majesty's military forces as may for the time being be transferred or assigned to it by order of His Majesty signified under the hand of a Secretary of State or, subject thereto, by regulations under this Act, but an association shall not have any powers of command or training over any part of His Majesty's military forces.

(2) The powers and duties so transferred or assigned may include any powers conferred on or vested in His Majesty, and any powers or duties conferred or imposed on the Army Council or a Secretary of State, by statute or otherwise, and in particular respecting the following matters:—

(a) The organisation of the units of the Territorial Force and their administration (including maintenance) at all times other than when they are called out for training or actual military service, or when embodied.

(b) The recruiting for the Territorial Force both in peace and in war, and defining the limits of recruiting areas:

(c) The provision and maintenance of rifle ranges, buildings, magazines, and sites of camps for the Territorial Force:

(d) Facilitating the provision of areas to be used for manoeuvres:

(e) Arranging with employers of labour as to holidays for training, and ascertaining the times of training best suited to the circumstances of civil life:

(f) Establishing or assisting cadet battalions and corps and also rifle clubs, provided that no financial assistance out of money voted by Parliament shall be given by an association in respect of any person in a battalion or corps in a school in receipt of a parliamentary grant until such person has attained the age of sixteen:

(g) The provision of horses for the peace requirements of the Territorial Force:

(h) Providing accommodation for the safe custody of arms and equipment:

(i) The supply of the requirements on mobilisation of the units of the Territorial Force within the county, in so far as those requirements are directed by the Army Council to be met locally, such requirements where practicable to be embodied in regulations which shall be issued to county associations from time to time, and on the first occasion not later than the first day of January one thousand nine hundred and nine:

(j) The payment of separation and other allowances to the families of men of the Territorial Force when embodied or called out on military service:

(k) The registration in conjunction with the military authorities of horses for any of His Majesty's forces:

(l) The care of reservists and discharged soldiers.

3. *Expenses of association.*—(1) The Army Council shall pay to an association, out of money voted by Parliament for army services, such sums as, in the opinion of the Army Council, are required to meet the necessary expenditure connected with the exercise and discharge by the association of its powers and duties.

(2) An association shall submit to the Army Council annually, at the prescribed time, and may submit at any other time for any special purpose, in the prescribed form and manner, a statement of its necessary requirements, and all payments to an association by the Army Council shall be made upon the basis of such statements in so far as they are approved by the Army Council.

(3) Subject to regulations under this Act, all money so paid to an association shall be applicable to any of the purposes specified in the approved statements in accordance with which the money has been granted, but not otherwise except with the written consent of the Army Council:

Provided that nothing in this section shall be construed as enabling the Army Council to



give their consent to the application of money to any purpose to which, apart from this section, it could not be lawfully applied, or to give their consent, without the authority of the Treasury, in any case in which, apart from this section, the authority of the Treasury would be required.

(4) All other money received by an association (except such money, if any, as may be received by it for specified purposes) shall be available for the purposes of any of its powers and duties.

(5) An association shall cause its accounts to be made up annually and audited in such manner as may be prescribed, and shall send copies of its accounts as audited, together with any report of the auditors thereon, to the Army Council.

(6) Regulations made for the purposes of this section shall be subject to the consent of the Treasury.

(7) The members of an association shall not be under any pecuniary liability for any act done by them in their capacity as members of such association in carrying out the provisions of this Act.

4. *Regulations.*—(1) Subject to the provisions of this Act, the Army Council may make regulations for carrying this Part of this Act into effect, and may by those regulations, amongst other things, provide for the following matters:—

- (a) For regulating the manner in which powers are to be exercised and duties performed by associations, and for specifying the services to which money paid by the Army Council is to be applicable;
- (b) For authorising and regulating the acquisition by or on behalf of an association of land for the purposes of this Act and the disposal of any land so acquired;
- (c) For authorising and regulating the borrowing of money by an association;
- (d) For authorising the acceptance of any money or other property, and the taking over of any liability, by an association, and for regulating the administration of any money or property so acquired and the discharge of any liability so taken over;
- (e) For facilitating the co-operation of an association with any other association, or with any local authority or other body, and for providing by the constitution of joint committees or otherwise for co-operative action in the organisation and administration of divisions, brigades, and other military bodies, and for the provision of assistance by one association to another;
- (f) For affiliating cadet corps and battalions, rifle clubs, and other bodies to the Territorial Force or any part thereof;
- (g) For or in respect of anything by this Part of this Act directed or authorised to be done or provided by regulations or to be done in the prescribed manner;
- (h) For the application for the purposes of this Part of this Act, as respects any matters to be dealt with by regulations, of any provision in any Act of Parliament dealing with the like matters, with the necessary modifications or adaptations, and in particular of any provisions as to the acquisition of land by or on behalf of volunteer corps.

(2) All regulations made in pursuance of this Part of this Act shall be applicable to all associations, except in so far as may be otherwise provided by the regulations or by any scheme made under this Part of this Act.

(3) All regulations made under this Part of this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

5. *Joint committees of associations.*—(1) Any county associations may from time to time join in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested.

(2) Any association appointing a joint committee under this sub-section may delegate to it any power which such association might exercise for the purpose for which the committee is appointed.

(3) Subject to the terms of delegation any such joint committee shall in respect of any matter

delegated to it have the same power in all respects as the associations appointing it.

(4) The costs of a joint committee shall be defrayed by the associations by whom it has been appointed, in such proportion as may be agreed between them, and the accounts of such joint committees and their officers shall for the purposes of the provisions of this Act be deemed to be accounts of the associations appointing them and of their officers.

## PART II.

### TERRITORIAL FORCE.

#### *Raising and Maintenance of Force.*

6. *Raising and number of Territorial Force.*—It shall be lawful for His Majesty to raise and maintain a force, to be called the "Territorial Force," consisting of such number of men as may from time to time be provided by Parliament.

#### *Government, Discipline, and Pay.*

7. *Government, discipline, and pay of Territorial Force.*—(1) Subject to the provisions of this Part of this Act it shall be lawful for His Majesty, by order signed under the hand of a Secretary of State, to make orders with respect to the government, discipline and pay and allowances of the Territorial Force, and with respect to all other matters and things relating to the Territorial Force, including any matter by this part of this Act authorised to be prescribed or expressed to be subject to orders or regulations.

(2) The said orders may provide for the formation of men of the Territorial Force into regiments, battalions, or other military bodies, and for the formation of such regiments, battalions, or other military bodies into corps, either alone or jointly with any other part of His Majesty's forces, and for appointing, transferring, or attaching men of the Territorial Force to corps, and for posting, attaching, or otherwise dealing with such men within the corps; and may provide for the constitution of a permanent staff, including adjutants and staff sergeants who shall, except in special circumstances certified by the general officer commanding, be members of His Majesty's regular forces; and may regulate the appointment, rank, duties, and numbers of the officers and non-commissioned officers of the Territorial Force.

(3) Subject to the provisions of any such order, the Army Council may make general or special regulations with respect to any matter with respect to which His Majesty may make orders under this section.

(4) Provided that the said orders or regulations shall not—

- (a) affect or extend the term for which, or the area within which a man of the Territorial Force is liable under this Part of this Act to serve; or
- (b) authorise a man of the Territorial Force when belonging to one corps to be transferred without his consent to another corps; or
- (c) when the corps of a man of the Territorial Force includes more than one unit, authorise him when not embodied to be posted, without his consent, to any unit other than that to which he was posted on enlistment; or
- (d) when the corps of a man of the Territorial Force includes any battalion or other body of the regular forces, authorise him to be posted without his consent to that battalion or body.

(5) Where a man of the Territorial Force was enlisted or re-engaged before the date of any order or regulation under this Part of this Act, nothing in such order or regulation shall render him liable without his consent to be appointed, transferred, or attached to any military body to which he could not without his consent have been appointed, transferred, or attached if the said order or regulation had not been made.

(6) Orders and regulations under this section may provide for the formation of a reserve division of the Territorial Force, and may relax or dispense with any of the provisions of this Act relating to the training of the men of the Terri-

torial Force so far as regards their application to men in the reserve division, and may, notwithstanding anything in this section, authorise a man in the reserve division to be transferred from one corps to another, so, however, that a man in the reserve division shall not, without his consent, be transferred to a corps of another arm.

(7) All orders and general regulations made under this section shall be laid before both Houses of Parliament as soon as may be after they are made.

8. *First appointments to lowest rank of officers of the Territorial Force.*—Subject to any directions which may be given by His Majesty, first appointments to the lowest rank of officer in any unit of the Territorial Force shall be given to persons recommended by the president of the association for the county, if a person approved by His Majesty is recommended by the president for any such appointment within thirty days after notice of a vacancy for the appointment has been given to the president in the prescribed manner, provided he fulfils all the prescribed conditions as to age, physical fitness, and educational qualifications; and, where a unit comprises men of the Territorial Force of two or more counties, the recommendations for such appointments shall be made by the presidents of the associations for the respective counties in such rotation or otherwise as may be prescribed.

#### *Enlistment, Service, Discharge.*

9. *Enlistment, term of service, and discharge.*—

(1) Subject to the provisions of this Part of this Act, all men of the Territorial Force shall be enlisted by such persons and in such manner and subject to such regulations as may be prescribed:

Provided that every man enlisted under this Part of this Act—

- (a) Shall be enlisted for a county for which an association has been established under this Act and shall be appointed to serve in such corps for that county or for an area comprising the whole or part of that county as he may select, and, if that corps comprises more than one unit within the county, shall be posted to such one of those units as he may select;
- (b) Shall be enlisted to serve for such a period as may be prescribed, not exceeding four years, reckoned from the date of his attestation;
- (c) May be re-engaged within twelve months before the end of his current term of service for such a period as may be prescribed not exceeding four years from the end of that term, and on re-engagement shall make the prescribed declaration before a justice of the peace or an officer, and so from time to time.
- (2) A man enlisted in the Territorial Force, until duly discharged in the prescribed manner, shall remain subject to this Part of this Act as a man of the Territorial Force.
- (3) Any man of the Territorial Force shall, except when a proclamation ordering the Army Reserve to be called out on permanent service is in force, be entitled to be discharged before the end of his current term of service on complying with the following conditions:—

- (i) Giving to his commanding officer three months' notice in writing, or such less notice as may be prescribed, of his desire to be discharged; and
- (ii) Paying for the use of the association for the county for which he was enlisted such sum as may be prescribed not exceeding five pounds; and
- (iii) Delivering up in good order, fair wear and tear only excepted, all arms, clothing, and appointments, being public property, issued to him, or, in cases where for any good and sufficient cause the delivery of the property aforesaid is impossible, on paying the value thereof:

Provided that it shall be lawful for the association for the county, or for any officer authorised by the association, in any case in which it appears that the reasons for which the discharge is claimed are of sufficient urgency or weight, to dispense either wholly or in part with all or any of the above conditions.

(4) A man of the Territorial Force may be discharged by his commanding officer for disobedience to orders by him while doing any military duty, or for neglect of duty, or for misconduct by him as a man of the Territorial Force, or for other sufficient cause, the existence and sufficiency of such cause to be judged of by the commanding officer:

Provided that any man so discharged shall be entitled to appeal to the Army Council who may give such directions in any such case as they may think just and proper.

(5) Where the time at which a man of the Territorial Force would otherwise be entitled to be discharged occurs while a proclamation ordering the Army Reserve to be called out on permanent service is in force, he may be required to prolong his service for such further period, not exceeding twelve months, as the competent military authority may order.

10. *Application of certain sections of the Army Act.*—(1) The following sections of the Army Act [44 & 45 Vict. c. 58] shall apply to the Territorial Force (that is to say):—

Section eighty (relating to the mode of enlistment and attestation);

Section ninety-six (relating to the claims of masters to apprentices);

Section ninety-eight (imposing a fine for unlawful recruiting);

Section ninety-three (making recruits punishable for false answers);

So much of section one hundred as relates to the validity of attestation and enlistment or re-engagement;

Section one hundred and one (relating to the competent military authority); and

So much of section one hundred and sixty-three as relates to an attestation paper, or a copy thereof, or a declaration, being evidence.

And the said sections shall apply in like manner as if they were herein re-enacted, with the substitution—

(a) Of "Territorial Force" for "regular forces," and of "man of the Territorial Force" for "soldier"; and

(b) (In section one hundred) of "has not within three months claimed his discharge or any ground on which he is entitled under this sub-section to do so" for "has received pay as a soldier of the regular forces during three months."

(2) A recruit may be attested by any lieutenant or deputy-lieutenant of any county in the United Kingdom, or by an officer of the regular or Territorial forces, and the sections of the Army Act in this section mentioned, and also section thirty-three of the same Act, shall as applied to the Territorial Force be construed as if a justice of the peace in those sections included such lieutenant, deputy-lieutenant, or officer.

11. *Enlistment of men discharged with disgrace from Army or Navy, or contrary to rules.*—

(1) If a person—

(a) Having been discharged with disgrace from any part of His Majesty's forces, or having been dismissed with disgrace from the Navy, has afterwards enlisted in the Territorial Force without declaring the circumstances of his discharge or dismissal; or

(b) Is concerned when subject to military law in the enlistment for service in the Territorial Force of any man, when he knows or has reasonable cause to believe such man to be so circumstanced that by enlisting he commits an offence against the Army Act or this Act; or

(c) Wilfully contravenes when subject to military law any enactments, orders, or regulations which relate to the enlistment or attestation of men in the Territorial Force,

he shall be guilty of an offence, and shall, whether otherwise subject to military law or not, be liable to be tried by court martial, and on conviction to suffer such punishment as is imposed for the like offence by section thirty-two or thirty-four of the Army Act, as the case may be, and may be taken into military custody.

(2) For the purpose of this section the ex-

pression "discharged with disgrace" means discharged with ignominy, discharged as incorrigible and worthless, or discharged for misconduct, or discharged on account of a conviction for felony or a sentence of penal servitude.

12. *Enlistment into army reserve.*—If a man of the Territorial Force enlists into the army reserve without being discharged from the Territorial Force, the terms and conditions of his service whilst he remains in the army reserve shall be those applicable to him as a man belonging to the army reserve, and not those applicable to him as a man of the Territorial Force.

13. *Area of service of Territorial Force.*—(1) Any part of the Territorial Force shall be liable to serve in any part of the United Kingdom, but no part of the Territorial Force shall be carried or ordered to go out of the United Kingdom.

(2) Provided that it shall be lawful for His Majesty, if he thinks fit, to accept the offer of any part or men of the Territorial Force, signified through their commanding officer, to subject themselves to the liability—

(a) To serve in any place outside the United Kingdom; or

(b) To be called out for actual military service for purposes of defence at such places in the United Kingdom as may be specified in their agreement, whether the Territorial Force is embodied or not;

and, upon such offer being accepted, they shall be liable, whenever required during the period to which the offer extends, to serve or be called out accordingly.

(3) A person shall not be compelled to make such an offer, or be subjected to such liability as aforesaid, except by his own consent, and a commanding officer shall not certify any voluntary offer previously to his having explained to every person making the offer that the offer is to be purely voluntary on his part.

#### Training.

14. *Preliminary training of recruits of Territorial Force.*—(1) Every man of the Territorial Force shall, by way of preliminary training, during the first year of his original enlistment—

(a) If so provided by Order in Council, be trained at such places within the United Kingdom, at such times, and for such periods, not exceeding in the whole the number of days specified by the Order in Council, as may be prescribed, and may for that purpose be called out once or oftener; and

(b) Whether such an Order in Council has been made or not, attend the number of drills and fulfil the other conditions prescribed for a recruit of his arm or branch of the service.

(2) The requirement to attend training and drills, and to fulfil conditions under this section, shall be in addition to the requirement to attend training and drills and to fulfil conditions for the purpose of annual training.

15. *Annual training.*—(1) Subject to the provisions of this section, every man of the Territorial Force shall, by way of annual training—

(a) Be trained for not less than eight nor more than fifteen, or in the case of the mounted branch eighteen, days in every year at such times and at such places in any part of the United Kingdom as may be prescribed, and may for that purpose be called out once or oftener in every year;

(b) Attend the number of drills and fulfil the other conditions relating to training prescribed for his arm or branch of the service;

Provided that the requirements of this section may be dispensed with in whole or in part—

(i) as respects any unit, by the prescribed general officer; and

(ii) as respects an individual man, by his commanding officer subject to any general directions by the prescribed general officer.

(2) His Majesty in Council may—

(a) Order that the period of annual training in any year of all or any part of the Territorial Force be extended, but so that the

whole period of annual training be not more than thirty days in any year; or

(b) Order that the period of annual training in any year of all or any part of the Territorial Force be reduced to such time as His Majesty may see fit; or

(c) Order that in any year the annual training of all or any part of the Territorial Force be dispensed with.

(3) Nothing in this section shall be construed as preventing a man, with his own consent, in addition to annual training, being called up for the purpose of duty or instruction in accordance with orders and regulations under this Part of this Act.

16. *Laying of draft Orders in Council relating to training before Parliament.*—Before any Order in Council is made under this Act providing for preliminary training or extending the period of annual training the draft thereof shall be laid before each House of Parliament for a period of not less than forty days during the Session of Parliament, and, if either of those Houses before the expiration of those forty days presents an address to His Majesty against the draft or any part thereof no further proceedings shall be taken, without prejudice to the making of a new draft Order.

#### Embodiment.

17. *Embodiment of Territorial Force.*—(1) Immediately upon and by virtue of the issue of a proclamation ordering the Army Reserve to be called out on permanent service, it shall be lawful for His Majesty to order the Army Council from time to time to give, and when given to revoke or vary, such directions as may seem necessary or proper for embodying all or any part of the Territorial Force, and in particular to make such special arrangements as they think proper with regard to units or individuals whose services may be required in other than a military capacity:

Provided that, where under any such proclamation directions have been issued for calling out all the men belonging to the first class of the Army Reserve, the Army Council shall, within one month after such directions have been issued, issue directions for embodying all the men belonging to the Territorial Force, unless an address has been presented to His Majesty by both Houses of Parliament praying that such directions as last aforesaid be not issued, and such directions shall not, unless the emergency so require, be given until Parliament has had an opportunity of presenting such an address.

(2) Whenever, in consequence of the calling out of the whole of the first class of the Army Reserve, directions are required under this section to be given for embodying the Territorial Force, if Parliament be then separated by such adjournment or prorogation as will not expire within ten days, a proclamation shall be issued for the meeting of Parliament within ten days, and Parliament shall accordingly meet and sit upon the day appointed by such proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

(3) Every order and all directions given under this section shall be obeyed as if enacted in this Act, and, where such directions for the time being direct the embodiment of any part of the Territorial Force, every officer and man belonging to that part shall attend at the place and time fixed by those directions, and after that time shall be deemed to be embodied, and such officers and men are in this Act referred to as embodied or as the embodied part or parts of the Territorial Force.

18. *Disembodying of Territorial Force.*—(1) It shall be lawful for His Majesty by proclamation to order that the Territorial Force be disembodied, and thereupon the Army Council shall give such directions as may seem necessary or proper for carrying the said proclamation into effect.

(2) Until any such proclamation of His Majesty has been issued the Army Council may from time to time, as they may think expedient for the public service, give such directions as may seem necessary or proper for disembodying any embodied part of the Territorial Force, and for embodying any part of the Territorial Force not



bodied, whether previously disembodied or otherwise.

(3) After the date fixed by the directions for the disembodiment of any part of the Territorial Force, the officers and men belonging to that part shall be in the position of officers and men of the Territorial Force not embodied.

#### Notices.

19. *Service and publication of notices.* Notices required in pursuance of this Part of this Act or of the orders and regulations in force thereunder to be given to men of the Territorial Force shall be served or published in such manner as may be prescribed, and, if so served or published, shall be deemed to be sufficient notice, and every constable and overseer shall, when so required by or on behalf of the Army Council, conform with the orders and regulations for the time being in force under this Part of this Act with respect to the publication and service of notices, and in default shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds.

#### Offences.

20. *Punishment for failure to attend on embodiment.*—(1) Any man of the Territorial Force who without leave lawfully granted, or such sickness or other reasonable excuse as may be allowed in the prescribed manner, fails to appear at the time and place appointed for assembling on embodiment, shall be guilty, according to the circumstances, of deserting within the meaning of section twelve, or of absenting himself without leave within the meaning of section fifteen, of the Army Act, and shall, whether otherwise subject to military law or not, be liable to be tried by court-martial, and convicted and punished accordingly, and may be taken into military custody.

(2) Sections one hundred and fifty-three and one hundred and fifty-four of the Army Act shall apply with respect to deserters and desertion within the meaning of this section in like manner as they apply with respect to deserters and desertion within the meaning of those sections, and any person who, knowing any man of the Territorial Force to be a deserter within the meaning of this section or of the Army Act, employs or continues to employ him, shall be deemed to aid him in concealing himself within the meaning of the first-mentioned section.

(3) Where a man of the Territorial Force commits the offence of desertion under this section the time which elapsed between the time of his committing the offence and the time of his apprehension or voluntary surrender shall not be taken into account in reckoning his service for the purpose of discharge.

21. *Punishment for failure to fulfil training conditions.* Any man of the Territorial Force who without leave lawfully granted, or such sickness or other reasonable excuse as may be allowed in the prescribed manner, fails to appear at the time and place appointed for preliminary training, or for annual training, or fails to attend the number of drills and fulfil the other conditions relating to preliminary or annual training prescribed for his arm or branch of the service, shall be liable to forfeit to His Majesty a sum of money not exceeding five pounds recoverable on complaint to a court of summary jurisdiction by the prescribed officer, and any sums recovered by such officer shall be accounted for by him in the prescribed manner.

22. *Wrongful sale, &c., of public property.* If any person designedly makes away with, sells, or pawns, or wrongfully destroys or damages, or negligently loses anything issued to him as an officer or man of the Territorial Force, or wrongfully refuses or neglects to deliver up on demand anything issued to him as an officer or man of the Territorial Force, the value thereof shall be recoverable from him on complaint to a court of summary jurisdiction by the county association; and he shall also, for any such offence of designedly making away with, selling, or pawning, or wrongfully destroying as aforesaid, be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

#### Civil Rights and Exemptions.

23. *Civil rights and exemptions.*—(1) The acceptance of a commission as an officer of the Territorial Force shall not vacate the seat of any member returned to serve in Parliament.

(2) An officer or man of the Territorial Force shall not be liable to any penalty or punishment for or on account of his absence during the time he is voting at any election of a member to serve in Parliament, or during the time he is going to or returning from such voting.

(3) If a sheriff is an officer of the Territorial Force, then during embodiment he shall be discharged from personally performing the office of sheriff, and the under sheriff shall be answerable for the execution of the said office in the name of the high sheriff; and the security given by the under sheriff and his pledges to the high sheriff shall stand as a security to the King and to all persons whomsoever for the due performance of the office of sheriff during such time.

(4) An officer or man of the Territorial Force shall not be compelled to serve as a peace officer or parish officer, and shall be exempt from serving on any jury, and a field officer of the Territorial Army shall not be required to serve in the office of high sheriff.

#### Legal Proceedings.

24. *Trial of offences and application of penalties.*—(1) Any offence under this Part of this Act, and any offence under the Army Act if committed by a man of the Territorial Force when not embodied, which is cognizable by a court-martial shall also be cognizable by a court of summary jurisdiction, and on conviction by such a court shall be punishable with imprisonment for a term not exceeding three months or with a fine not exceeding twenty pounds, or with both such imprisonment and fine, but nothing in this provision shall affect the liability of a person charged with any such offence to be taken into military custody.

(2) Any offence which under this Part of this Act is punishable on conviction by court-martial, shall for all purposes of and incidental to the arrest, trial, and punishment of the offender, including the summary dealing with the case by his commanding officer, be deemed to be an offence under the Army Act, with this modification, that any reference in that Act to forfeiture and stoppages shall be construed to refer to such forfeitures and stoppages as may be prescribed.

(3) Any offence which under this Part of this Act is punishable on conviction by a court of summary jurisdiction may be prosecuted, and any fine recoverable on such conviction may be recovered, in manner provided by sections one hundred and sixty-six, one hundred and sixty-seven, and one hundred and sixty-eight of the Army Act, in like manner as if those sections were herein re-enacted and in terms made applicable to this Part of this Act, subject to the following modification (namely)—

Every fine imposed under this Part of this Act on a man of the Territorial Force, or recovered on a prosecution instituted under this Part of this Act, shall, notwithstanding anything in any Act or charter or in the said sections to the contrary, be paid to the association of the county for which the man was enlisted.

(4) Where a man of the Territorial Force is subject to military law and is illegally absent from his duty, a court of inquiry under section seventy-two of the Army Act may be assembled after the expiration of twenty-one days from the date of such absence, notwithstanding that the period during which he was subject to military law is less than twenty-one days or has expired before the expiration of twenty-one days.

25. *Supplemental provisions as to trial of offences.*—(1) A person charged with an offence which under this Part of this Act is cognizable both by a court-martial and by a court of summary jurisdiction shall not be liable to be tried both by a court-martial and by a court of summary jurisdiction, but may be tried by either of them, as may be prescribed:

Provided that a man who has been dealt with summarily by his commanding officer shall be deemed to have been tried by court-martial.

(2) Proceedings against an offender before either a court-martial or his commanding officer, or a court of summary jurisdiction, in respect of an offence punishable under this Part of this Act, and alleged to have been committed by him when a man of the Territorial Force, may be instituted whether the term of his service in the Territorial Force has or has not expired, and may, notwithstanding anything in any other Act be instituted at any time within two months after the time at which the offence becomes known to his commanding officer if the alleged offender is then apprehended, or, if he is not then apprehended, then within two months after the time at which he is apprehended.

(3) Where an offender has on several occasions been guilty of desertion, fraudulent enlistment, or making a false answer, he may for the purposes of any proceedings against him be deemed to belong to any one or more of the corps to which he has been appointed or transferred as well as to the corps to which he properly belongs, and it shall be lawful to charge the offender with any number of the above-mentioned offences at the same time, whether they are offences within the meaning of the Army Act or offences within the meaning of this Part of this Act, and to give evidence of such offences against him, and, if he has been convicted of more than one offence, to punish him accordingly as if he had been previously convicted of any such offence.

26. *Evidence.*—(1) Section one hundred and sixty-four of the Army Act (which relates to evidence of the civil conviction or acquittal of a person subject to military law) shall apply to a man of the Territorial Force, who is tried by a civil court, whether he is or is not at the time of such trial subject to military law.

(2) Section one hundred and sixty-three of the Army Act (relating to evidence) shall apply to all proceedings under this Part of this Act.

#### Miscellaneous.

27. *Exercise of powers vested in holder of military office.*—(1) Any power or jurisdiction given to, and act or thing to be done by, to, or before any person holding any military office may, in relation to the Territorial Force, be exercised by or done by, to, or before any other person for the time being authorised in that behalf, according to the custom of the Service.

(2) Where by this Part of this Act, or by any order or regulation in force under this Part of this Act, any order is authorised to be made by any military authority, such order may be signified by an order, instruction, or letter under the hand of any officer authorised to issue orders on behalf of such military authority, and an order, instruction, or letter purporting to be signed by any officer appearing therein to be so authorised shall be evidence of his being so authorised.

28. *Application of enactments.*—(1) The Army Act shall apply to the Territorial Force and officers and men thereof in like manner as it applies to the Militia, and officers and men of the Militia, except that men of the Territorial Force shall, in addition, be subject to military law when called out on actual military service for purposes of defence, and shall be liable to dismissal as a punishment, and for that purpose the amendments contained in the First Schedule to this Act shall be made in the Army Act.

(2) For the purpose of section one hundred and forty-three of the Army Act and of all other enactments relating to such duties, tolls, and ferries as are in that section mentioned, officers and men belonging to the Territorial Force, when going to or returning from any place at which they are required to attend, and for non-attendance at which they are liable to be punished, shall be deemed to be officers and soldiers of the regular forces on duty.

(3) His Majesty may by Order in Council apply, with the necessary adaptations, to the Territorial Force or the officers or men belonging to that force any enactment relating to the Militia, Yeomanry, or Volunteers, or officers or men of the Militia, Yeomanry, or Volunteers, other than enactments with respect to the raising, service, pay, discipline, or government of the Militia, Yeomanry, or Volunteers, and every

such Order in Council shall be laid before both Houses of Parliament.

#### Transitory.

29. *Transitory provisions.*—(1) Where an association has been established under this Act for any county His Majesty may by Order in Council transfer to the Territorial Force such units of the Yeomanry and Volunteers or part thereof raised in the county as may be specified in the Order, and every such unit or part thereof shall from the date mentioned in the Order be deemed to have been lawfully formed under this Part of this Act as an unit of the Territorial Force as provided by the Order, and the provisions of this Part of this Act shall apply to it accordingly.

(2) Every officer and man of an unit or part thereof mentioned in any such Order shall, from the date mentioned in that Order, be deemed to be an officer or man of the Territorial Force. Provided that nothing in this section or in any Order made thereunder shall, without his consent, affect the conditions or area of service of any person commissioned, enlisted, or enrolled before the passing of this Act.

(3) An Order in Council under this section may provide—

(a) For the application to officers and men who become subject thereto of the provisions of this Act as to conditions and area of service, and for the continuance of the application to officers and men who remain subject thereto of the provisions as to conditions and area of service previously in force as respects those officers and men;

(b) For transferring to the association any property vested in a Secretary of State for the purposes of any unit to which the Order relates;

(c) For transferring to the association any property belonging to or held for the benefit of any such unit so however that all property so transferred shall as from the date of the transfer be held by the association for the benefit in like manner of the corresponding unit of the Territorial Force or for such other purposes as the association, with the consent of such corresponding unit, to be ascertained in the prescribed manner, shall direct; and any question which may arise as to whether any property is transferred to an association, or as to the trusts or purposes upon or for which it is or ought to be held, shall be referred for the decision of a Secretary of State whose decision shall be final. The corresponding unit of the territorial force shall, in the event of any such transfer, become entitled, notwithstanding the terms of any trust, limitation, or condition affecting the property so transferred to the estate or interest in such property of the unit to the property of which the order relates; but, subject to this provision, the interest of any beneficiary other than such unit shall not, without the consent of such beneficiary, be affected. The order may, if it be deemed proper, having regard to the special circumstances of any case, provide for the appointment of special trustees to act together with or to the exclusion of the association in regard to any such property and such special trustees may be the existing trustees of such property;

(d) For transferring to the association any liabilities of any such unit which the association is willing to assume, and providing for the discharge of any such liabilities which are not so transferred;

(e) For transferring to the association any land or interest in land acquired by the council of a county or borough on behalf of any volunteer corps to which the order relates, and any outstanding liabilities of the council incurred in respect thereof, if the council and the association consent;

and may contain such supplemental, consequential, and incidental provisions as may appear necessary or proper for the purposes of the Order.

(4) Every Order in Council made under this section shall be laid before both Houses of Parliament.

#### PART III.

##### RESERVE FORCES.

30. *Enlistment and terms of service of special reservists.*—(1) The power of enlisting men into the first class of the army reserve under the Reserve Forces Act, 1882 [45 & 46 Vict. c. 48], shall extend to the enlistment of men who have not served in His Majesty's regular forces, and men so enlisted who have not served in the regular forces are in this Part of this Act referred to as special reservists, and a special reservist may be re-engaged, and when re-engaged shall continue subject to the terms of service applicable to special reservists.

(2) A special reservist may, in addition to being called out for annual training, be called out for a special course or special courses of training at such place or places within the United Kingdom at such time or times and for such period or periods, not exceeding in the whole six months, as may be prescribed, in like manner and subject to the like conditions as he may be called out for annual training, and may during any such course be attached to or trained with any body of His Majesty's forces.

(3) Notwithstanding the provisions of section eleven of the Reserve Forces Act, 1882, any special reservists may be called out for annual training for such period or periods as may be prescribed by any order or regulations under the Reserve Forces Act, 1882.

(4) Provided that where one of the conditions on which a man was enlisted or re-engaged is that he shall not be called out for training, whether special or annual, for a longer period than the period specified in his attestation paper, he shall not be liable under this section to be called out for any longer period.

(5) Where a proclamation ordering the army reserve to be called out on permanent service has been issued, it shall be lawful for His Majesty at any time thereafter by proclamation to order that all special reservists shall cease to be so called out, and thereupon a Secretary of State shall give such directions as may seem necessary or proper for carrying the said proclamation into effect.

(6) A special reservist who enlists into the regular forces shall upon such enlistment be deemed to be discharged from the army reserve.

31. *Agreements as to extension of service.*—A Secretary of State may, by regulations under the Reserve Forces Act, 1882, authorize any special reservist having the qualifications prescribed by those regulations to agree in writing that, if the time when he would otherwise be entitled to be discharged occurs whilst he is called out on permanent service, he will continue to serve until the expiration of a period, whether definite or indefinite, specified in the agreement, and, if any man who enters into such an agreement is so called out, he shall be liable to be detained in service for the period specified in his agreement in the same manner in all respects as if his term of service were still unexpired.

32. *Liability of reservists to be called out.*—(1) A special reservist shall, if he so agrees in writing, be liable during the whole of his service in the army reserve, or during such part of that service as he so agrees, to be called out on permanent service without such proclamation or communication to Parliament, as is mentioned in section twelve of the Reserve Forces Act, 1882, and the calling out of men under this section shall not involve the meeting of Parliament as required by section thirteen of that Act:

Provided that—

(a) The number of men so liable shall not at any one time exceed four thousand;

(b) The power of calling out of men under this section shall not be exercised except when they are required for service outside the United Kingdom when warlike operations are in preparation or in progress;

(c) Any agreement under this section may

provide for the revocation thereof by such notice in writing as may be therein stated:

(d) Any exercise of the power of calling out men under this section shall be reported to Parliament as soon as may be:

(e) The number of men for the time being called out under this section shall not be reckoned in the number of the forces authorised by the Annual Army Act for the time being in force.

(2) Six thousand shall be substituted for five thousand as the maximum number of men liable to be called out under section one of the Reserve Forces and Militia Act, 1898 [61 & 62 Vict. c. 9], and the liability to be called out under that section may, if so agreed, extend to the first two years of a man's service in the first class of the army reserve.

(3) In paragraph (5) of section one hundred and seventy-six of the Army Act the words "under His Majesty's proclamation" shall be repealed.

33. *Power to form battalions, &c., of reservists.* Orders and regulations under the Reserve Forces Act, 1882, may provide for the formation of special reservists into regiments, battalions, or other military bodies and for the formation of such regiments, battalions, or other military bodies into corps, either alone or jointly with any other part of His Majesty's forces, and for appointing, transferring, or attaching special reservists to such corps, and for posting, attaching, or otherwise dealing with special reservists within such corps.

34. *Transfer of Militia battalions to reserve.*—(1) His Majesty may by Order in Council transfer to the Army Reserve such battalions of the Militia as may be specified in the order, and every battalion so transferred shall from the date mentioned in the order be deemed to have been lawfully formed under this part of this Act as a battalion of special reservists.

(2) As from the said date every officer of any battalion so transferred shall be deemed to be an officer in the reserve of officers, and every man in such battalion shall be deemed to be a special reservist, and the order may contain such provisions as may seem necessary for applying the provisions of the Reserve Forces Act, 1882 to 1906, as amended by this Act, to those officers and men:

Provided that, unless any officer or man in any battalion so transferred indicates his assent to such transfer certified by his commanding officer, nothing in the order shall affect his existing conditions of service.

(3) All Orders in Council made under this section shall be laid before both Houses of Parliament.

35. *Amendment of 45 & 46 Vict. c. 48, s. 6 (4).* Sub-section (4) of section six of the Reserve Forces Act, 1882, which makes a certificate purporting to be signed by an officer appointed to pay men belonging to the army reserve evidence in certain cases, shall, where a person other than an officer is appointed to pay men belonging to the army reserve, apply to certificates purporting to be signed by such person.

36. *Commissions in reserve of officers not to vacate seat in Parliament.* The acceptance of a commission as an officer in the reserve of officers shall not vacate the seat of any member returned to serve in Parliament.

#### PART IV.

##### SUPPLEMENTAL.

37. *Provisions as to orders, schemes, and regulations.*—(1) Every Order in Council or scheme required by this Act to be laid before each House of Parliament shall be so laid within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the next ensuing session; and, if an address is presented to His Majesty by either House of Parliament within the next subsequent forty days, praying that any such order or scheme may be annulled, His Majesty may thereupon by Order in Council annul the same, and the order or scheme so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

(2) All Orders in Council, orders, schemes, and



regulations made under this Act may be varied or revoked by subsequent Orders in Council, orders, schemes, and regulations made in the like manner and subject to the like conditions.

38. *Definitions.* In this Act, unless the context otherwise requires,—

The expression "county" means a county or riding of a county for which a lieutenant is appointed, and includes the City of London; and each county of a city or county of a town mentioned in the first column of the Second Schedule to this Act shall be deemed to form part of the county set opposite thereto in the second column of that schedule;

The expression "man of the Territorial Force" includes a non-commissioned officer;

The expression "prescribed" means prescribed by orders or regulations;

Other expressions have the same meaning as in the Army Act.

39. *Special provisions as to special places.*—(1) The Lord Warden of the Cinque Ports may ex-officio be a member of the association of the county of Kent or of the county of Sussex, or of both, as may be provided by schemes under this Act.

(2) The Warden of the Stannaries may ex-officio be a member of the association of the county of Cornwall or of the county of Devon, or of both, as may be provided by schemes under this Act.

(3) The Lord Mayor of the City of London shall ex-officio be president of the association of the City of London.

(4) The Governor or Deputy Governor of the Isle of Wight shall ex-officio be a member of the association of the county of Southampton.

(5) Nothing in this Act shall affect the raising and levying of the Trophy Tax as heretofore in the City of London, but the proceeds of the Tax so levied may be applied by His Majesty's Commissioners of Lieutenancy for the City of London, if the Royal London Militia Battalion is re-constituted as a battalion of the Army Reserve, for any purposes connected with that battalion, and may also, if His Majesty's Commissioners of Lieutenancy for the City of London in their discretion see fit, be applied for the purpose of any of the powers and duties of the association of the City of London under this Act.

40. *Application to Scotland and the Isle of Man.*—(1) In the application of this Act to Scotland the following modifications shall be made:—

(a) This Act shall apply to a county of a city in like manner as to any other county: Provided that on the representation or with the consent of the corporation of any county of a city it shall be lawful for His Majesty, by order signified under the hand of a Secretary of State, at any time after the passing of this Act, to declare that such county of a city shall for the purposes of this Act be deemed to form part of the county set opposite thereto in the second column of the Third Schedule to this Act, and to provide for all matters which may appear necessary or proper for giving full effect to the order;

(b) The expression "county borough council" means the town council of a royal, parliamentary, or police burgh with a population of or exceeding twenty thousand according to the census for the time being last taken;

(c) The expression "land" includes heritages;

(d) The expression "overseer" means an inspector of poor.

(2) This Act shall apply to the Isle of Man as if it formed part of, and were included in the expression, the United Kingdom, subject to the following modifications:—

(a) The Isle of Man shall be deemed to be a separate county;

(b) References to the Governor of the Island shall be substituted for references to the lieutenant of a county;

(c) References to a High Bailiff or two justices of the peace and to a conviction by such Bailiff or justices shall be substituted for references to a court of summary jurisdiction and to a conviction under the Summary Jurisdiction Acts;

(d) References to the Tynwald Court shall be substituted for references to Parliament in the section of this Act relating to civil rights and exemptions.

41. *Short title.* This Act may be cited as the Territorial and Reserve Forces Act, 1907, and so far as it relates to the reserve forces may be cited with the Reserve Forces Acts, 1882 to 1906, as the Reserve Forces Acts, 1882 to 1907.

SCHEDULES.

FIRST SCHEDULE.

[Section 28.]

AMENDMENT OF ARMY ACT.

Section.	Amendment.
S. 13 (1) (a) and (b)	After the word "Militia" there shall be inserted the words "or Territorial Force."
S. 115 (7)	After the word "Whenever" there shall be inserted the words "a proclamation ordering the Army Reserve to be called out on permanent service or"
S. 115 (8)	After the words "then if" there shall be inserted the words "a proclamation ordering the Army Reserve to be called out on permanent service or"
S. 175	After paragraph (3) there shall be inserted the following paragraph:— "(3A) Officers of the Territorial Force other than members of the permanent staff."
S. 176	After paragraph (6) there shall be inserted the following paragraph:— "(6A) All non-commissioned officers and men belonging to the Territorial Force— "(a) When they are being trained or exercised, either alone or with any portion of the regular forces or otherwise; and "(b) When attached to or otherwise acting as part of or with any regular forces; and "(c) When embodied; and "(d) When called out for actual military service for purposes of defence in pursuance of any agreement."
S. 181 (4)	The words "the unit of the Territorial Force," shall be inserted after the words "officer commanding," where those words first occur, and the words "an unit of the Territorial Force," shall be inserted after those words where they secondly occur, and the words "Territorial Force" shall be inserted after the words "an officer, non-commissioned officer, or man of the"
S. 181 (4) (a)	After the word "any" there shall be inserted the words "man of the Territorial Force or"
S. 181 (4) (b) and (c)	The word "Militia" shall be repealed in both places where that word occurs, and the words "of the Territorial Force or Militia" shall be inserted after the word "man" in both places where that word occurs.
S. 181 (6)	After the word "Volunteers" there shall be inserted the words "or the Territorial Force."
S. 190 (12)	After the word "means" there shall be inserted the words "the Territorial Force."

SECOND SCHEDULE.

[Section 38.]

Names of Cities and Towns.	County.
ENGLAND.	
County of the city of Chester	Chester.
County of the city of Exeter	Devon.
County of the town of Poole	Dorset.
County of the city of Gloucester ... ..	Gloucester.
County of the city of Bristol	Gloucester.
County of the city of Canterbury ... ..	Kent.
County of the city of Lincoln	Lincoln.
County of the city of Norwich	Norfolk.
County of the town of Newcastle-upon-Tyne ... ..	Northumberland.
Borough and town of Berwick-upon-Tweed ... ..	Northumberland.
County of the town of Nottingham ... ..	Nottingham.
County of the town of Southampton ... ..	Southampton.
County of the city of Lichfield ... ..	Stafford.
County of the city of Worcester ... ..	Worcester.
County of the city of York...	West Riding of York.
County of the town of Kingston-upon-Hull ... ..	East Riding of York.
County of the town of Carmarthen... ..	Carmarthen.
County of the town of Haverfordwest ... ..	Pembroke.
IRELAND.	
County of the city of Waterford ... ..	Waterford.
County of the town of Londonderry ... ..	Londonderry.

THIRD SCHEDULE.

[Section 40.]

SCOTLAND.

Name of County of City.	County.
County of the city of Edinburgh ... ..	Edinburgh.
County of the city of Glasgow ... ..	Lanark.
County of the city of Dundee	Forfar.
County of the city of Aberdeen ... ..	Aberdeen.

CHAPTER 10.

[Employment of Women Act, 1907.]

An Act to repeal section fifty-seven of the Factory and Workshop Act, 1901, and part of section seven of the Coal Mines Regulation Act, 1887, relating to the Employment of Women and Children.

[9th August 1907.]

Be it enacted, &c. :

1. *Repeal of certain provisions as to employment of women.* Section fifty-seven of the Factory and Workshop Act, 1901 (which relates to the employment of women in flax scutch mills), and in paragraph (5) of section seven of the Coal Mines Regulation Act, 1887 (which relates to the employment of women and children above ground), the words "of not less than eight hours between the termination of employment on Friday and the commencement of employment on the following Saturday and in other cases" are hereby repealed.

2. *Short title.* This Act may be cited as the Employment of Women Act, 1907.

CHAPTER 11.

[British North America Act, 1907.]

An Act to make further provision with respect to the sums to be paid by Canada to the several Provinces of the Dominion.  
[9th August 1907.]

CHAPTER 12.

[Matrimonial Causes Act, 1907.]

An Act to amend the Matrimonial Causes Acts, 1857 and 1866, by extending the powers of the Court in relation to Maintenance and Alimony, and leave to intervene.

[9th August 1907.]

Be it enacted, &c.:

1. *Power to grant maintenance and alimony.*—(1) The court may, if it thinks fit, on any decree for dissolution or nullity of marriage, order that the husband shall, to the satisfaction of the court, secure to the wife such gross sum of money or such annual sum of money for any term not exceeding her life as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it may deem reasonable, and for that purpose may refer the matter to any one of the conveyancing counsel of the court to settle and approve of a proper deed or instrument to be executed by all necessary parties, and the court may, if it thinks fit, suspend the pronouncing of its decree until such deed shall have been duly executed.

(2) In any such case the court may, if it thinks fit, make an order on the husband for payment to the wife during their joint lives of such monthly or weekly sum for her maintenance and support as the court may think reasonable, and any such order may be made either in addition to or instead of an order under the last preceding sub-section: Provided that—

(a) If the husband afterwards from any cause becomes unable to make such payments it shall be lawful for the court to discharge or modify the order or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the order wholly or in part as the court may think fit; and

(b) Where the court has made any such order as is mentioned in this sub-section and the court is satisfied that the means of the husband have increased, the court may, if it thinks fit, increase the amount payable under the order.

(3) Upon any petition for dissolution or nullity of marriage the court shall have the same power to make interim orders for payment of money, by way of alimony or otherwise, to the wife as it has in a suit instituted for judicial separation.

2. *Repeal of section 32 of 20 & 21 Vict. c. 85 and section 1 of 29 & 30 Vict. c. 32.* Section thirty-two of the Matrimonial Causes Act, 1857, and section one of the Matrimonial Causes Act, 1866, are hereby repealed.

3. *Power to allow intervention on terms.* In every case, not already provided for by law, in which any person is charged with adultery with any party to a suit, or in which the court may consider, in the interest of any person not already a party to the suit, that such person should be made a party to the suit, the court may, if it thinks fit, allow that person to intervene upon such terms (if any) as the court may think just.

4. *Short title.* This Act may be cited as the Matrimonial Causes Act, 1907, and may be cited with the Matrimonial Causes Acts, 1857 to 1878.

CHAPTER 13.

[Finance Act, 1907.]

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue and the National Debt, and to make other provisions for the financial arrangements of the year.

[9th August 1907.]

PART I.  
CUSTOMS AND EXCISE.

PART II.  
STAMPS.

6. *Extension of exemption from stamp duty in case of certain affidavits and declarations.* The limitation of the exemption numbered (2) under the heading "Affidavit and Statutory Declaration" in the First Schedule to the Stamp Act, 1891 [54 & 55 Vict. c. 39], to affidavits or declarations made before a justice of the peace shall cease to have effect.

7. *Stamping of hire purchase agreement.* Any agreement for or relating to the supply of goods on hire, whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied, shall be charged with stamp duty as an agreement, or, if under seal (or in Scotland with a clause of registration), as a deed, as the case requires, and the exemption numbered (3) under the heading "Agreement or any Memorandum of an Agreement," in the First Schedule to the Stamp Act, 1891 (which exempts agreements for the sale of goods), shall not apply in the case of any such instrument.

8. *Provisions as to policies of insurance.*—(1) It is hereby declared, for the removal of doubts, that "a policy of insurance for any payment agreed to be made "by way of indemnity against loss or damage of or to any property" within the meaning of the Stamp Act, 1891, includes any notice or advertisement in a newspaper or other publication which purports to insure such payment.

(2) The provisions of section one hundred and sixteen of the said Act (which relates to composition for stamp duty on policies of insurance against accident) shall apply to policies of insurance for any payment agreed to be made by way of indemnity against loss or damage of or to any property as they apply to policies of insurance against accident.

(3) Section eleven of the Finance Act, 1899 [62 & 63 Vict. c. 9] (which relates to policies of insurance in respect of injury to workmen), shall be read as if two pounds were substituted for one pound as the amount of the annual premium therein mentioned.

9. *Proxies executed abroad.* So much of sub-section (2) of section eighty of the Stamp Act, 1891, as prevents the stamping after execution of a letter or power of attorney or voting paper charged with the duty of one penny shall cease to apply as regards any such instrument which has been first executed at any place out of the United Kingdom, and accordingly any such instrument so executed after the commencement of this Act may be stamped after execution in accordance with section fifteen of the said Act.

10. *Reduction of duty on loan capital issued for the purpose of the conversion or consolidation of existing capital.*—(1) Where it is shown to the satisfaction of the Commissioners that the loan capital issued by any local authority, corporation, company, or body of persons, in respect of which a statement has, after the commencement of this Act, been delivered to the Commissioners under section eight of the Finance Act, 1899 [62 & 63 Vict. c. 9], has been wholly or partly applied for the purpose of the conversion or consolidation of then existing loan capital, that authority, corporation, company, or body of persons, as the case may be, shall be entitled to repayment in respect of the duty charged on the statement so delivered at the rate of two shillings for every hundred pounds of the capital to which the statement relates which is so shown to have been applied for the purpose of the conversion or consolidation of then existing loan capital; but this section shall not apply to any duty payable in respect of a mortgage or marketable security which has been paid on any trust deed or other document securing the loan capital which has been issued.

(2) If it is represented to the Commissioners by any such local authority, corporation, company, or body of persons that loan capital about to be issued by them is to be applied, in whole or in part, for the purpose of the conversion or consolidation of existing loan capital, the Commissioners may postpone the time for the delivery of the statement and

the payment of duty under section eight of the Finance Act, 1899, until the capital has been issued or until such other time as the Commissioners think fit for the purpose of enabling the payment and repayment of the duty to take place as one transaction.

11. *Remission of stamp duty on Customs and Excise debentures and certificates.* The duty payable under the Stamp Act, 1891, on any debenture or certificate for entitling any person to receive any allowance by way of drawback or otherwise payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandise exported or shipped to be exported from the United Kingdom to any part beyond the sea, and on any certificate of any goods, wares, or merchandise having been duly entered inwards, which shall be entered outwards for exportation at the port of importation, or be removed from thence to any other port for the more convenient exportation thereof, where such certificate is issued for enabling a person to obtain a debenture or certificate entitling him to receive a drawback of any duty of customs, shall cease to be payable, and any such debentures or certificates shall not be liable to stamp duty.

PART III.

DEATH DUTIES.

12. *Amended rates of estate duty.* The scale set out in the First Schedule to this Act shall, in the case of persons dying on or after the nineteenth day of April nineteen hundred and seven, be substituted for the scale of rates of estate duty set out in section seventeen of the Finance Act, 1894 [57 & 58 Vict. c. 30] (in this Part of this Act referred to as the principal Act):

Provided that where an interest in expectancy (within the meaning of Part I. of the principal Act) in any property has before the nineteenth day of April nineteen hundred and seven been *bona fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this section had not passed; and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

13. *Extension of power to remit death duties.* The power of the Commissioners under sub-section (11) of section eight of the principal Act to remit the payment of estate duty or interest thereon shall apply to the other duties which are included in the definition of death duties in sub-section (3) of section thirteen of that Act as well as to estate duty.

14. *Power to entertain application for discharge from claims for estate duty made at any time.* The Commissioners may, if they think fit, entertain any application made for the purpose of sub-section (2) of section eleven of the principal Act (which relates to discharge from claims for estate duty), at whatever time the application is made; and, as respects any application so entertained, the provisions of that sub-section shall have effect notwithstanding that the application is made before the lapse of the two years mentioned in that sub-section.

15. *Calculation of the allowance to be made in respect of duty paid before the commencement of the Finance Act, 1894.* The deduction to be allowed under section twenty-one of the Finance Act, 1896 [59 & 60 Vict. c. 28], in respect of death duties previously paid on property on which estate duty is payable shall, instead of being the amount of the duty paid or payable, be the amount which would have been payable on account of the duty if the duty were calculated on the value of the property on which estate duty is payable: Provided that, if as respects any such deduction the person by whom the duty is payable requires the Commissioners, on the first delivery of his account, to calculate the deduction as if this section had not passed, the deduction shall be so calculated.

16. *Limited aggregation of certain settled property abolished.* In the case of persons dying on or after the nineteenth day of April nineteen hundred and seven, any settled property which would, under sub-section (2) of section twelve of the Finance Act, 1900 [63 & 64 Vict. c. 7], be aggregated with other property so as to enhance the rate of duty to the limited extent provided in that section, shall, for



the purposes of the principal Act, instead of being so aggregated, be treated as an estate by itself.

PART IV.  
LOCAL TAXATION ACCOUNT.

PART V.  
INCOME TAX.

18. *Income tax for 1907-8.*—(1) Income tax for the year beginning on the sixth day of April nineteen hundred and seven shall be charged at the rate of one shilling.

(2) All such enactments relating to income tax as were in force on the fifth day of April nineteen hundred and seven shall, subject to any amendments made by this Act, have full force and effect with respect to the duty of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1853 [16 & 17 Vict. c. 34], or of inhabited house duty, during the year ending on the fifth day of April nineteen hundred and seven, shall be taken as the annual value of such property for the same purpose during the next subsequent year; provided that this sub-section—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and

(b) shall not apply to the Metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 & 33 Vict. c. 67].

19. *Relief in respect of earned income where total income does not exceed £2,000.*—(1) Any individual who claims and proves, in manner provided by this section, that his total income from all sources does not exceed two thousand pounds, and that any part of that income is earned income, shall be entitled, subject to the provisions of this section, to such relief from income tax as will reduce the amount payable on the earned income to the amount which would be payable if the tax were charged on that income at the rate of nine pence.

(2) The relief given by this section shall be in addition to and not in derogation of any exemption or other relief or abatement under the Income Tax Acts, except that where an individual is entitled to relief from income tax under section eight of the Finance Act, 1898 [61 & 62 Vict. c. 10], or, in respect of the payment of premiums, under section fifty-four of the Income Tax Act, 1853 [16 & 17 Vict. c. 34] (as extended by any subsequent enactment), relief shall be given under this section only in respect of such earned income (if any) as remains after deducting therefrom the amount on which he is relieved of income tax under the said sections eight and fifty-four.

(3) Where relief is given under section eight of the Finance Act, 1898, or section fifty-four of the Income Tax Act, 1853, by way of repayment of the tax after relief has been given under this section, the amount repaid shall be adjusted so that the total amount of the relief given under this section and under the said sections eight and fifty-four does not exceed the amount which would have been given if the whole relief had been claimed simultaneously.

(4) An individual who desires relief under this section must, in cases where he is required to make a return for the purpose of the assessment of income tax, claim that relief at the time the return is made and must, in any case, claim that relief before the thirtieth day of September in the year for which the tax is charged.

For the purpose of making a claim for relief under this section with respect to income tax charged under this Act for the current year, any individual may, before the thirtieth day of September nineteen hundred and seven, substitute a fresh return for any return previously made by him.

(5) An individual shall not be entitled to relief under this section in respect of any income the tax on which he is entitled to charge against any other person, or to deduct, retain, or satisfy out of any payment which he is liable to make to any other person.

(6) Subject to the provisions of this section, all the provisions of the Income Tax Acts which relate to claims for exemption, relief, or abatement, or the proof to be given with respect to those

claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

(7) For the purposes of this section the expression "income" means income as estimated according to the several rules and directions of the Income Tax Acts; and the expression "earned income" means—

(a) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation, or other allowance, deferred pay, or compensation for loss of office given in respect of the past services of the individual or of the husband or parent of the individual in any office or employment of profit, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation allowance, or deferred pay or not; and

(b) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual; and

(c) any income which is charged under Schedules B or D in the Income Tax Act, 1853, or the rules prescribed by Schedule D in the Income Tax Act, 1842 [5 & 6 Vict. c. 35], and is immediately derived by the individual from the carrying on or exercise by him of his profession, trade, or vocation either as an individual, or, in the case of a partnership, as a partner personally acting therein.

In cases where a wife's profits are deemed to be profits of the husband, any reference in this provision to the individual includes either the husband or the wife.

(8) Section 34 of the Finance Act, 1894, shall cease to have effect so far as it gives relief or abatement to persons who are entitled to relief under section eight of the Finance Act, 1898.

20. *Special provisions applicable to partners.*—Where an individual carrying on or exercising any profession, trade or vocation in partnership with any other person makes any claim for exemption, relief, or abatement under the Income Tax Acts, the income of the individual from the partnership for the year to which the claim relates may be treated separately for the purpose of any such exemption, relief, or abatement, and if so treated shall be deemed to be the share to which he is entitled during the said year in the partnership profits, such profits being estimated according to the several rules and directions of those Acts.

21. *Particulars to be given by employers.*—(1) Every employer, when required to do so by notice from an assessor, shall, within the time limited by the notice, prepare and deliver to the assessor a return of the names and places of residence of any persons employed by him, to whom this provision applies, and of the payments made to those persons in respect of that employment, and section fifty-five of the Income Tax Act, 1842 [5 & 6 Vict. c. 35], shall apply with respect to any such return as it applies with respect to the lists, declaration, or statements mentioned in that section.

This provision applies to all persons employed by an employer, except persons who are not employed in any other employment, and whose remuneration in the employment for the year does not exceed the sum for the time being fixed as the limit for total exemption from income tax.

(2) Where the employer is a body of persons, corporate or unincorporate (including a company), the secretary of the body, or other officer (by whatever name called) performing the duties of secretary, shall be deemed to be the employer for the purposes of this provision, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

22. *Liability to make returns.*—(1) Every person upon whom notice is served in manner prescribed by section forty-eight of the Income Tax Act, 1842 (which relates to the delivery of notices by assessors), requiring him to make a return of any profits, gains, or income in respect of which he is chargeable with duty under Schedule D or Schedule E in the Income Tax Act, 1853, shall make a return in the form required by the notice, whether he is or is not chargeable with duty, and in

default shall be liable to a penalty under section fifty-five of the Income Tax Act, 1842, accordingly:

Provided that a penalty inflicted in the case of a person proceeded against for not complying with this provision, who proves that he was not chargeable to duties, shall not exceed five pounds for any one offence.

(2) The duties imposed on officers of any corporation, company, fraternity, fellowship, or society by sections forty and fifty-four of the Income Tax Act, 1842, and by section eighteen of the Customs and Inland Revenue Act, 1879 [42 & 43 Vict. c. 21], shall, in the case of any company, be performed by the secretary of the company or other officer (by whatever name called) performing the duties of secretary.

23. *Extension of time for certain proceedings.*—(1) Notwithstanding anything in an Act concerning Informers, being chapter five of the Acts of the thirty-first year of the reign of Queen Elizabeth [31 Eliz. c. 5], or in sub-section (4) of section twenty-one of the Taxes Management Act, 1880 [43 & 44 Vict. c. 19], or in sub-section (2) of section twenty-two of the Inland Revenue Regulation Act, 1890 [53 & 54 Vict. c. 21], or in any other enactment, proceedings for the recovery of any fine or penalty incurred under the Income Tax Acts may be commenced within three years next after the fine or penalty is incurred.

(2) The time during which an assessment may be amended or an additional first assessment made under section fifty-two of the Taxes Management Act, 1880 [43 & 44 Vict. c. 19] (which relates to the amendment of assessments), or during which an assessment may be made on the estate of a deceased person under section twenty-four of the Customs and Inland Revenue Act, 1890 [53 & 54 Vict. c. 8] (which relates to the power to make such assessments), shall be any time within the year of assessment or within three years after the expiration thereof, and the time during which in cases of omission to charge any person a charge may be made and allowed or signed under section sixty-three of the Taxes Management Act, 1880 (which relates to the powers of surveyors to make such charges), shall be a period of three years after the expiration of the year for which the person ought to have been charged.

(3) Nothing in this section shall affect proceedings for the recovery of fines or penalties incurred before the commencement of this Act, or extend the time during which any assessment may be made or amended, or a charge may be made on any person in respect of income tax charged under any Act passed before the commencement of this Act.

24. *Provisions with respect to computing profits by average of three years.*—(1) Section one hundred and thirty-three of the Income Tax Act, 1842, and section 6 of the Revenue Act, 1865 [28 & 29 Vict. c. 30] (which provides for the reduction of assessments or the repayment of duty in certain cases where the profits of the year of assessment fall short of the sum on which the assessment has been made), shall cease to have effect as respects income tax charged for the year beginning the sixth day of April, nineteen hundred and seven, or for any subsequent year.

(2) Where a person charged or chargeable with income tax in respect of any profession, trade, or vocation which has been set up or commenced within the period of three years upon the average of which the profits or gains are to be taken under the Income Tax Acts, or within the year of assessment, proves at the end of the year of assessment to the satisfaction of the commissioners by whom the assessment has been or can be made that the actual profits or gains arising from the profession, trade, or vocation in the year of assessment fall short of the profits or gains as computed in accordance with those Acts, he shall be entitled to be charged on the actual amount of the profits or gains so arising instead of on the amount of the profits or gains so computed, and, if he has paid the full amount of the tax on the profits or gains so computed, be entitled to repayment of the amount overpaid.

(3) Where a profession, trade, or vocation is discontinued in any year, any person charged

10



Session and Chapter.	Short Title.	Extent of Repeal.
		any person to receive any allowance by way of drawback or otherwise payable out of the revenue of customs or excise, for or in respect of any goods, wares, or merchandise exported or shipped to be exported from the United Kingdom to any part beyond the sea. Where the allowance to be received does not exceed £10 . 0 1 0 Exceeds £10 and does not exceed £50 . 0 2 6 Exceeds £50 . 0 5 0"
57 & 58 Vict. c. 30.	The Finance Act, 1894.	The scale of the rates of estate duty in section seventeen, except as respects persons dying before the nineteenth day of April nineteen hundred and seven.
63 & 64 Vict. c. 7.	Finance Act, 1900.	In section two, the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one." In section three, the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one." In section four, the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one," and the words "in and for the same period." In section five the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one," wherever they occur, and the words "This section shall not shall affect the continuance after the first day of August nineteen hundred and one of the duties existing prior to this section taking effect." In section six the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one," and the words "between the fifth day of March nineteen hundred and the first day of August nineteen hundred and one." In section seven the words "as from the sixth day of March nineteen hundred until the first day of August nineteen hundred and one."

CHAPTER 14.

[Released Persons (Poor Law Relief) Act, 1907.]

An Act to make better provision as to the Relief of Persons released from detention in Prisons, Reformatory and Industrial Schools, and Inebriate Reformatories.

[21st August 1907.]

Be it enacted, &c.:

1. *Relief of released prisoner.*—(1) Where it appears to a justice of the peace having jurisdiction in the place where a prison is situate, or being a member of the visiting committee or board of visitors of the prison, by notice in writing given by the governor of the prison, that a person detained in the prison is about to be released therefrom, and that on his release the person will, by reason of infirmity of mind or body, require immediate poor law relief, the justice may make an order for the removal of that person, on his release, to and his reception in the workhouse of the poor law union consisting of or comprising the parish in which he appears to the justice to be settled, or, if the justice cannot ascertain in what parish he is settled, then the workhouse of the poor law union to which he is deemed to be *prima facie* chargeable for the purposes of this section.

(2) Such person shall, for the purposes of this section, be deemed to be *prima facie* chargeable to the poor law union in which the ordinary residence of the person appears to the justice making the order to have been at the time when the offence for or in respect of which he is detained was alleged to have been committed, or, if the justice cannot ascertain such residence, then—

- (a) to the poor law union in which such offence was alleged to have been committed; or
- (b) if that offence was alleged to have been committed out of the United Kingdom, to the poor law union in which the court of summary jurisdiction by which the person was convicted or committed for trial, or ordered to be detained, sat.

(3) The order of the justice shall be in such form as may be prescribed by the Secretary of State, and shall authorise the conveyance of the person in respect of whom it is made to the workhouse named in the order, and shall be served and be enforceable in like manner as an order of removal under the Acts relating to the relief of the poor.

(4) Where it appears to the justice making the order that the person will on his release be too ill to be removed to the workhouse named in the order, he may suspend the operation of the order, and in that case the person on his release may be conveyed to and shall be received in the workhouse of the poor law union in which the prison is situate, but the expenses of his maintenance in that workhouse shall be repaid by the guardians of the poor law union named in the order.

(5) Where an order under this Act has been made with respect to any person, an order under the Acts relating to the relief of the poor for his removal to the poor law union consisting of or comprising the parish where he is actually settled may be obtained on the application of the guardians of the poor law union named in the first-mentioned order, either before or after the execution of that order, and on such last-mentioned order being obtained the order under this Act shall cease to have effect, and the provisions of this Act shall cease to apply, but all expenses entailed by this Act or an order made thereunder on the guardians of the poor law union named in that order shall be repaid to them by the guardians of the poor law union consisting of or comprising the parish where the said person is actually settled.

2. *Application of Act to reformatory and industrial schools.*—This Act shall apply to persons detained in industrial and reformatory schools, subject to the following modifications:—

- (a) For references to prisons and governors thereof there shall be substituted references to reformatory and industrial schools and superintendents thereof;

(b) For the reference to members of the visiting committee or board of visitors there shall be substituted a reference to managers;

(c) References to offences and the time and place where offences were committed shall include references to the circumstances in consequence of which the order of detention was made and the time and place where such circumstances occurred.

3. *Application of Act to inebriate reformatories.*—This Act shall apply to persons detained in inebriate reformatories subject, in the case of certified inebriate reformatories, to the following modifications:—

- (a) For references to prisons and governors thereof there shall be substituted references to inebriate reformatories and superintendents thereof;
- (b) For references to members of the visiting committee or board of visitors there shall be substituted references to managers.

4. *Short title and extent.*—(1) This Act may be cited as the Released Persons (Poor Law Relief) Act, 1907.

(2) This Act shall extend only to England and Wales, and where a person has not a place of settlement or residence in England or Wales his place of settlement or residence shall be deemed for the purposes of this Act to be unascertainable.

CHAPTER 15.

[Salmon and Freshwater Fisheries Act, 1907.]

An Act to enable Provisional Orders to be made for regulating Salmon and Freshwater Fisheries.

[21st August 1907.]

Be it enacted, &c.:

1. *Power of Board of Agriculture and Fisheries to make orders.*—With a view to the improvement and development of the salmon fisheries or freshwater fisheries, or either of them, within any area, the Board of Agriculture and Fisheries may, upon such application as is herein-after mentioned, make a provisional order for the regulation of any such fisheries within the area defined by the order.

2. *Contents of the order.*—(1) A provisional order under this Act may provide for—

- (a) defining the area within which the order is to apply;
- (b) the constitution and incorporation of a board of conservators;
- (c) applying to a board of conservators so constituted, and an area so defined, either without modification, or subject to such modifications as may be contained in the order, all or any of the provisions of the Salmon and Freshwater Fisheries Acts with respect to boards of conservators and fishery districts constituted under those Acts;
- (d) the imposition, collection, and recovery of contributions to be assessed on private fisheries regulated by the order or on the owners or occupiers thereof;
- (e) enabling the conservators to purchase or take on lease any part of the foreshore specified in the order, together with any easement over any adjoining land necessary for securing access to the foreshore so acquired, and by themselves or their lessees to erect on the foreshore so acquired and work fixed engines for salmon.

Provided that any such order—

(i) shall not authorise a fixed engine for salmon to be worked for a period exceeding five years unless the authority is from time to time extended by licence of the Board for such term as may be specified in the licence and not exceeding at any one time five years, and the Board shall not grant any such licence until they have inquired into the effect of the working of the engine on the salmon fisheries within the area; and

(ii) shall provide that all rents and profits of the fixed engines for salmon authorised by the order to be worked by the conservators shall be appropriated for the purpose of securing the

restriction or abolition of the use in the area of nets and other obstructions to the passage of salmon:

- (f) modifying in relation to the fisheries within the area any of the provisions of the Salmon and Freshwater Fisheries Acts which relate to the regulation of fisheries, or of any local Act relating to any fishery within the area;
- (g) abolishing any board of conservators established under the Salmon and Freshwater Fisheries Acts within the area, and transferring their property and liabilities to the board of conservators constituted by the order, and making such adjustments between the two bodies as may appear to the Board to be necessary or expedient;
- (h) requiring returns to be made by persons taking fish within the area;
- (i) the payment out of any funds in the hands of the board of conservators constituted by the order of the costs of the applicants in obtaining the order and its confirmation by Parliament;
- (j) the general regulation of the fisheries within the area,

and may contain any incidental, consequential, or supplemental provisions, including provisions for payment of compensation to persons injuriously affected by the order, which may appear to be necessary or proper for the purposes of the order.

(2) For the purposes of the acquisition of any part of the foreshore or any easement necessary for giving access thereto authorized to be taken compulsorily under any such provisional order, the provisions of the Lands Clauses Acts which relate to the purchase and taking of lands otherwise than by agreement, and to the entry upon lands by the promoters of the undertaking, are, subject to the modifications set out in the schedule to this Act, incorporated with this Act.

(3) The Board of Agriculture and Fisheries shall make rules providing for proper notice being given of an application for the inclusion in a provisional order of a power to acquire compulsorily any part of the foreshore or any easement over adjoining land to owners, lessees, and occupiers of the foreshore or land affected, and also for public notice being given of the application by advertisement.

(4) A provisional order under this Act shall not apply to any waters in which the business of artificially propagating or rearing salmon or trout is carried on under a licence granted by the Board of Agriculture and Fisheries, and any such licence may be granted by the Board, subject to such conditions (if any) as they think fit, and may be revoked if the Board are of opinion that any condition has not been observed.

**3. Application for the order.]** A provisional order under this Act shall not be made except on the application of a board of conservators constituted under the Salmon and Freshwater Fisheries Acts, or of a county council, or of persons who in the opinion of the Board of Agriculture and Fisheries are the owners of one-fourth at least in value of the private fisheries proposed to be regulated or constitute a majority of the persons holding licences to fish in public waters within the area of the proposed order, and every such application shall be advertised by the applicants in such manner as the Board of Agriculture and Fisheries direct.

**4. Procedure for making the order.]**—(1) The Board of Agriculture and Fisheries, if they consider that a *prima facie* case is made out by the applicants for the making of a provisional order under this Act, shall hold a local inquiry (of which due notice shall be given) by an inspector or other officer of the Board, who shall report the result of his inquiry to the Board, and they, if satisfied of the propriety of making an order, shall prepare a draft, and shall once in each of two successive weeks notify the making of the draft order in some newspaper in general circulation within the area to which the draft relates, and the notification shall specify the place where copies of the draft can be inspected and obtained, and the time within which and the manner in which notices of objection to the draft are to be sent to the Board.

(2) The Board may, if they think it expedient, and shall, if any county council having authority within the area of the proposed order object, hold a local inquiry by an inspector or other officer of

the Board with respect to any objections made to the draft order, and shall, after considering all such objections and the report of the officer who held the inquiry (if any) thereon, settle the terms of the draft order.

**5. Confirmation by Parliament.]**—(1) The Board of Agriculture and Fisheries may submit to Parliament for confirmation any provisional order made by them in pursuance of this Act, and any such order shall be of no force whatever unless and until it is confirmed by Parliament.

(2) The Board may revoke either wholly or partially any such order before the order is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament.

(3) If while the Bill confirming any such order is pending in either House of Parliament a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, shall be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

(4) Any such order may be repealed, altered, or amended by a further provisional order made by the Board in like manner as the original order, and confirmed by Parliament.

**6. Expenses.]** Any expenses incurred by any board of conservators or county council under this Act in respect of any provisional order or confirming Bill made thereunder, or in respect of any application for any such order, shall, whether or not the application for the order was made by the board or the council, be defrayed—

(a) in the case of a board of conservators, as expenses incurred by them under the Salmon and Freshwater Fisheries Acts; and

(b) in the case of a county council, out of the county fund.

**7. Consents in case of Crown and Duchy foreshore and land.]** Where any portion of the foreshore proposed to be comprised in a provisional order under this Act, or any fishery proposed to be affected by any such order, or any land over which it is proposed to acquire an easement under any such order, belongs to His Majesty in right of the Crown, or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall, the Board of Agriculture and Fisheries shall not make the order:—

(a) in the case of any foreshore under the management of the Commissioners of Woods, or of any fishery or land belonging to His Majesty in right of the Crown, without the consent of the Commissioners of Woods, or one of them;

(b) in the case of any foreshore under the management of the Board of Trade, without the consent of the Board of Trade;

(c) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Lancaster, without the consent of the Chancellor of the Duchy;

(d) in the case of any foreshore or fishery or land forming part of the possessions of the Duchy of Cornwall, without the consent of the Duke of Cornwall, or other the persons for the time being empowered to dispose for any purpose of the lands of the Duchy.

**8. Short title, extent, and construction.]**—(1) This Act may be cited as the Salmon and Freshwater Fisheries Act, 1907, and may be cited with the Salmon and Freshwater Fisheries Acts, 1861 to 1892.

(2) This Act shall not apply to Scotland (except the River Esk, in Dumfriesshire, and its tributaries) or to Ireland, or to the River Tweed, as defined by bye-law under the Salmon Fisheries (Scotland) Act, 1862 [25 & 26 Vict. c. 97], or to its tributaries.

(3) In this Act the expression "Salmon and Freshwater Fisheries Acts" means the Salmon and Freshwater Fisheries Acts, 1861 to 1892, and the Fisheries (Norfolk and Suffolk) Act, 1896 [59 & 60 Vict. c. 18], and other expressions have the same meaning as in those Acts.

## SCHEDULE.

### [Section 2.]

#### MODIFICATIONS OF THE LANDS CLAUSES ACTS.

The following modifications shall have effect in

the construction of the provisions of the Lands Clauses Acts incorporated by this Act for the purposes thereof:—

- (a) The expression "special Act" means this Act inclusive of any provisional order authorising the compulsory acquisition of any part of the foreshore, except that the period of three years mentioned in section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845, shall be calculated from the passing of the Act confirming the provisional order;
- (b) The expression "the promoters" means the board of conservators constituted by the order; and
- (c) The expression "land" includes easements in or relating to land.

## CHAPTER 16.

### [Evidence (Colonial Statutes) Act, 1907.]

An Act to facilitate the admission in evidence of statutes passed by the Legislatures of British possessions and protectorates, including Cyprus. [21st August 1907.]

Be it enacted, &c.:

**1. Proof of statutes of British possessions.]**—(1) Copies of Acts, ordinances, and statutes passed (whether before or after the passing of this Act) by the Legislature of any British possession, and of orders, regulations, and other instruments issued or made, whether before or after the passing of this Act, under the authority of any such Act, ordinance, or statute, if purporting to be printed by the Government printer, shall be received in evidence by all courts of justice in the United Kingdom without any proof being given that the copies were so printed.

(2) If any person prints any copy or pretended copy of any such Act, ordinance, statute, order, regulation, or instrument which falsely purports to have been printed by the Government printer, or tenders in evidence any such copy or pretended copy which falsely purports to have been so printed, knowing that it was not so printed, he shall on conviction be liable to be sentenced to imprisonment with or without hard labour for a period not exceeding twelve months.

(3) In this Act—

The expression "Government printer" means, as respects any British possession, the printer purporting to be the printer authorized to print the Acts, ordinances, or statutes of the Legislature of that possession, or otherwise to be the Government printer of that possession:

The expression "British possession" means any part of His Majesty's dominions exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local Legislature, shall include both all parts under the central Legislature and each part under a local Legislature.

(4) Nothing in this Act shall affect the Colonial Laws Validity Act, 1865 [28 & 29 Vict. c. 63].

(5) His Majesty may by Order in Council extend this Act to Cyprus and any British protectorate, and where so extended this Act shall apply as if Cyprus or the protectorate were a British possession, and with such other necessary adaptations as may be made by the order.

**2. Short title.]** This Act may be cited as the Evidence (Colonial Statutes) Act, 1907.

## CHAPTER 17.

### [Probation of Offenders Act, 1907.]

An Act to permit the Release on Probation of Offenders in certain cases, and for other matters incidental thereto. [21st August 1907.]

Be it enacted, &c.:

**1. Power of courts to permit conditional release of offenders.]**—(1) Where any person is charged before a court of summary jurisdiction with an offence punishable by such court, and the court thinks that the charge is proved, but is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the



extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, without proceeding to conviction, make an order either—

- (i) dismissing the information or charge; or
- (ii) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(2) Where any person has been convicted on indictment of any offence punishable with imprisonment, and the court is of opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence, or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any other than a nominal punishment, or that it is expedient to release the offender on probation, the court may, in lieu of imposing a sentence of imprisonment, make an order discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called on at any time during such period, not exceeding three years, as may be specified in the order.

(3) The court may, in addition to any such order, order the offender to pay such damages for injury or compensation for loss (not exceeding in the case of a court of summary jurisdiction ten pounds, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) and to pay such costs of the proceedings as the court thinks reasonable, and, if the offender is under the age of sixteen years, and it appears to the court that the parent or guardian of the offender has conducted to the commission of the offence, the court may under and in accordance with the Youthful Offenders Act, 1901 [1 Edw. 7, c. 20], order payment of such damages and costs by such parent or guardian.

(4) Where an order under this section is made by a court of summary jurisdiction, the order shall, for the purpose of re-vesting or restoring stolen property, and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

## 2. Probation orders and conditions of recognizances.]

—(1) A recognizance ordered to be entered into under this Act shall, if the court so order, contain a condition that the offender be under the supervision of such person as may be named in the order during the period specified in the order and such other conditions for securing such supervision as may be specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this Act referred to as a probation order.

(2) A recognizance under this Act may contain such additional conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters:—

- (a) for prohibiting the offender from associating with thieves and other undesirable persons, or from frequenting undesirable places;
- (b) as to abstention from intoxicating liquor, where the offence was drunkenness or an offence committed under the influence of drink;
- (c) generally for securing that the offender should lead an honest and industrious life.

(3) The court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

3. Probation officers.]—(1) There may be appointed as probation officer or officers for a petty sessional division such person or persons of either sex as the authority having power to appoint a clerk to the justices of that division may determine, and a probation officer when acting under a probation order

shall be subject to the control of petty sessional courts for the division for which he is so appointed.

(2) There shall be appointed, where circumstances permit, special probation officers, to be called children's probation officers, who shall, in the absence of any reasons to the contrary, be named in a probation order made in the case of an offender under the age of sixteen.

(3) The person named in any probation order shall,—

(a) where the court making the order is a court of summary jurisdiction, be selected from amongst the probation officers for the petty sessional division in or for which the court acts; or

(b) where the court making the order is a court of assizes or a court of quarter sessions, be selected from amongst the probation officers for the petty sessional division from which the person charged was committed for trial.

Provided that the person so named may, if the court considers it expedient on account of the place of residence of the offender, or for any other special reason, be a probation officer for some other petty sessional division, and may, if the court considers that the special circumstances of the case render it desirable, be a person who has not been appointed to be probation officer for any petty sessional division.

(4) A probation officer appointed for a petty sessional division may be paid such salary as the authority having the control of the fund out of which the salary of the clerk to the justices of that petty sessional division is paid may determine, and if not so paid by salary may receive such remuneration for acting under a probation order as the court making the order thinks fit, not exceeding such remuneration as may be allowed by the regulations of such authority as aforesaid, and may in either case be paid such out-of-pocket expenses as may be allowed under such regulations as aforesaid, and the salary or remuneration and expenses shall be paid by that authority out of the said funds.

(5) A person named in a probation order not being a probation officer for a petty sessional division may be paid such remuneration and out-of-pocket expenses out of such fund as the court making the probation order may direct, not exceeding such as may be allowed under the regulations of the authority having control of the fund out of which the remuneration is directed to be paid.

(6) The person named in a probation order may at any time be relieved of his duties, and in any such case or in case of the death of the person so named, another person may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence, or, if he be a probation officer for a petty sessional division, by a court to whose control that officer is subject.

(7) In the application of this Act to the City of London and the metropolitan police court district, the city and each division of that district shall be deemed to be a petty sessional division.

4. Duties of probation officers.] It shall be the duty of a probation officer, subject to the directions of the court—

- (a) to visit or receive reports from the person under supervision at such reasonable intervals as may be specified in the probation order, or subject thereto, as the probation officer may think fit;
- (b) to see that he observes the conditions of his recognizance;
- (c) to report to the court as to his behaviour;
- (d) to advise, assist, and befriend him, and, when necessary, to endeavour to find him suitable employment.

5. Power to vary conditions of release.] The court before which any person is bound by his recognizance under this Act to appear for conviction or sentence may, upon the application of the probation officer, and after notice to the offender, vary the conditions of the recognizance and may, on being satisfied that the conduct of that person has been such as to make it unnecessary that he should remain longer under supervision, discharge the recognizance.

6. Provision in case of offender failing to observe

conditions of release.]—(1) If the court before which the offender is bound by his recognizance under this Act to appear for conviction or sentence, or any court of summary jurisdiction, is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension, or may, if it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the offender and his sureties (if any) requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender, when apprehended, shall, if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before a court of summary jurisdiction.

(3) The court before which an offender on apprehension is brought, or before which he appears in pursuance of such summons as aforesaid, may, if it is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(4) An offender so remanded to custody may be committed during remand to any prison to which the court having power to convict or sentence him has power to commit prisoners. In the case of a child or young person under the age of sixteen, he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of section four, sub-section one, of the Youthful Offenders Act, 1901.

(5) A court before which a person is bound by his recognizance to appear for conviction and sentence, on being satisfied that he has failed to observe any condition of his recognizance, may forthwith, without further proof of his guilt, convict and sentence him for the original offence or, if the case was one in which the court in the first instance might, under section fifteen of the Industrial Schools Act, 1866 [29 & 30 Vict. c. 118], have ordered the offender to be sent to a certified industrial school, and the offender is still apparently under the age of twelve years, make such an order.

7. Power to make rules.] The Secretary of State may make rules for carrying this Act into effect, and in particular for prescribing such matters incidental to the appointment, resignation, and removal of probation officers, and the performance of their duties, and the reports to be made by them, as may appear necessary.

8. Application to Scotland.] This Act shall apply to Scotland, subject to the following modifications:—

(2) There may be appointed as probation officers for a district being a royal, parliamentary, or police burgh, or a county outwith the police boundaries of any such burgh, such persons as the burgh magistrates may determine for the burgh and the sheriff for the county; and a probation officer when acting under a probation order shall be subject to the control of the burgh police court or sheriff court, as the case may be;

(3) The immediately preceding sub-section shall be substituted for sub-section one of section three of this Act, and references in this Act to a petty sessional division shall be construed as references to a district:

(3) The expression "court of summary jurisdiction" where occurring in section three of this Act shall include the sheriff sitting with a jury:

(4) "Bond" shall be substituted for "recognizance," the "Secretary for Scotland" shall be substituted for "the Secretary of State," and "the High Court of Justiciary" shall be substituted for "a court of assize or a court of quarter sessions";

(5) The authority having power to regulate the remuneration of probation officers shall be the town council in a burgh and the county council in a county, and such remuneration shall be paid out of the burgh general or police assessment or the county general assessment, as the case may be.

9. Application to Ireland.] In the application of this Act to Ireland "Lord Lieutenant" shall be substituted for "Secretary of State," and each

division of the police district of Dublin metropolis shall be deemed to be a petty sessional division.

10. *Short title and repeal.*—(1) This Act may be cited as the Probation of Offenders Act, 1907.

(2) The enactments mentioned in the schedule to this Act shall be repealed to the extent specified in the third column of that schedule.

(3) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

## SCHEDULE.

[Section 10.]

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
42 & 43 Vict. c. 49.	The Summary Jurisdiction Act, 1879.	Section sixteen.
50 & 51 Vict. c. 25.	The Probation of First Offenders Act, 1887.	The whole Act.
1 Edw. 7. c. 20.	The Youthful Offenders Act, 1901.	Section twelve.

## CHAPTER 18.

[Married Women's Property Act, 1907.]

An Act to amend the Married Women's Property Act, 1882. [21st August 1907.]

Be it enacted, &c.:

1. *Dispositions of trust estates by married women.*—(1) A married woman is able, without her husband, to dispose of, or to join in disposing of, real or personal property held by her solely or jointly with any other person as trustee or personal representative in like manner as if she were a femme sole.

(2) This section operates to render valid and confirm all such dispositions made after the thirty-first day of December one thousand eight hundred and eighty-two, whether before or after the commencement of this Act, but, where any title or right has been acquired through or with the concurrence of the husband before the commencement of this Act, that title or right shall prevail over any title or right which would otherwise be rendered valid by this section.

2. *Settlements of a married woman's separate property.*—(1) Notwithstanding section nineteen of the Married Women's Property Act, 1882 [45 & 46 Vict. c. 75], a settlement or agreement for a settlement made after the commencement of this Act by the husband or intended husband, whether before or after marriage, respecting the property of any woman he may marry or have married, shall not be valid unless it is executed by her if she is of full age, or confirmed by her after she attains full age.

(2) But if she dies an infant any covenant or disposition by her husband contained in the settlement or agreement shall bind or pass any interest in any property of hers to which he may become entitled on her death and which he could have bound or disposed of if this Act had not been passed.

(3) Nothing in this section shall render invalid any settlement or agreement for a settlement made or to be made under the provisions of the Infant Settlements Act, 1855 [18 & 19 Vict. c. 43].

3. *Married woman entitled to prior estate to be protector of settlement alone.*—(1) Where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is by virtue of the Married Women's Property Act, 1882, made her separate property, then she alone shall, in respect of that estate, be the protector of the settlement.

(2) This section applies to disentailing assurances and surrenders made after the thirty-first day of December one thousand eight hundred and eighty-two, and as well before as after the commencement of this Act.

4. *Short title; commencement; construction.*—(1) This Act may be cited as the Married Women's Property Act, 1907.

(2) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

(3) This Act shall not extend to Scotland.

(4) This Act shall be construed with the Married Women's Property Acts, 1882, 1884, and 1893 [45 & 46 Vict. c. 75; 47 Vict. c. 14; 56 & 57 Vict. c. 63], and those Acts and this Act may be cited together as the Married Women's Property Acts, 1882 to 1907.

## CHAPTER 19.

[Prisons (Ireland) Act, 1907.]

An Act to enable portion of a term of imprisonment in Ireland to be remitted as a reward for good conduct. [21st August 1907.]

## CHAPTER 20.

[Appropriation Act, 1907.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and eight, and to appropriate the supplies granted in this Session of Parliament. [21st August 1907.]

## CHAPTER 21.

[Butter and Margarine Act, 1907.]

An Act to make further provision with respect to the Manufacture, Importation, and Sale of Butter and Margarine and similar Substances. [21st August 1907.]

Be it enacted, &c.:

1. *Registration of factories and consignments.*—(1) The provisions of section 9 of the Margarine Act, 1887 [50 & 51 Vict. c. 29], as amended by section seven of the Sale of Food and Drugs Act, 1899 [62 & 63 Vict. c. 51], relating to the registration of manufactories of margarine, shall, with the necessary adaptations, apply to—

(a) Butter factories, that is to say, any premises on which by way of trade butter is blended, reworked, or subjected to any other treatment, but not so as to cease to be butter; and

(b) Any premises on which there is manufactured any milk-blended butter (that is to say, any mixture produced by mixing or blending butter with milk or cream, other than condensed milk or cream) or on which there is carried on the business of a wholesale dealer in milk-blended butter.

(2) The provisions of section seven of the Sale of Food and Drugs Act, 1899, relating to registers of consignments of margarine, shall, with the necessary adaptations, apply to consignments of milk-blended butter.

(3) Premises shall not be used as a butter factory if they form part of or communicate, otherwise than by a public street or road, with any other premises which are required to be registered under the Sale of Food and Drugs Acts or under paragraph (b) of this section, and if any premises are so used the occupier thereof shall be guilty of an offence under this Act, and the local authority shall remove from the register of butter factories kept by them any premises used as a butter factory contrary to this provision:

Provided that this sub-section shall not apply to premises which on the first day of January one thousand nine hundred and seven were being used as a butter factory and formed part of or communicated with premises which were then registered under the Sale of Food and Drugs Acts, if and so long as the Board of Agriculture and Fisheries so direct.

2. *Inspection of factories.*—(1) Any officer of the Board of Agriculture and Fisheries or of the Local Government Board shall have power to enter at all reasonable times any premises registered under the Sale of Food and Drugs Acts or this Act, and to inspect any process of manufacture, blending, reworking, or treatment used therein, and to take samples for analysis of any butter, margarine, margarine cheese, milk-blended butter, or of any article capable of being used in the manufacture, treatment, or adulteration of any such article as aforesaid.

(2) An officer of a local authority who is authorized to procure samples under the Sale of Food and Drugs Acts shall, if specially authorized

in that behalf by the local authority, have the like powers of entry, inspection, and sampling as regards any premises registered with the authority as a butter factory.

(3) If the Board of Agriculture and Fisheries have reason to believe—

(a) that on any unregistered premises there is carried on any process of manufacture, blending, reworking, or treatment or any wholesale dealing which under the Sale of Food and Drugs Acts or this Act cannot be carried on except on registered premises; or

(b) that on any premises butter is by way of trade either made or stored, and that for the purposes of those Acts inspection is desirable,

the Board may specially authorize any officer of the Board to enter the premises, and in such case the officer shall have the like powers of entry, inspection, and sampling as if the premises were registered.

(4) Where under this section a special authority is required, an officer of the Board or of a local authority shall not be entitled to exercise any of his powers under this section unless, if so requested by or on behalf of the occupier of the premises to be entered, he produces his authority.

(5) Sub-section (3) of section seven of the Sale of Food and Drugs Act, 1899, is hereby repealed.

3. *Prohibition of adulterants in butter factories.*—If any substance intended to be used for the adulteration of butter is found in any butter factory, the occupier of the factory shall be guilty of an offence under this Act, and if any oil or fat capable of being so used is found it shall be deemed to be intended to be so used, unless the contrary is proved.

4. *Limit of moisture in butter, margarine, and milk-blended butter.*—(1) If any butter which, when prepared for sale or consignment, contains more than sixteen per cent. of water is in any butter factory, or if any margarine which, when prepared for sale or consignment, contains more than sixteen per cent. of water is in any margarine factory, or if any such butter or margarine is consigned from a butter factory or margarine factory, the occupier of the factory or consignor, as the case may be, shall (whether the excess of moisture is due to adulteration or not) be guilty of an offence under this Act, unless the occupier or consignor proves to the satisfaction of the court that the butter or margarine was not made, blended, reworked, or treated in the factory.

(2) Any person who manufactures, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, any milk-blended butter which contains more than twenty-four per cent. of water, shall be guilty of an offence under this Act.

5. *Provision as to the importation of butter, margarine, and milk-blended butter.*—(1) There shall be included in the list of articles importation of which is made an offence by section one of the Sale of Food and Drugs Act, 1899, the following articles:—

(a) Butter containing more than sixteen per cent. of water;

(f) Margarine containing more than sixteen per cent. of water, or more than ten per cent. of butter fat;

(g) Milk-blended butter containing more than twenty-four per cent. of water;

(h) Milk-blended butter, except in packages conspicuously marked with such name as may be approved by the Board of Agriculture and Fisheries for the purpose;

(j) Butter, margarine, or milk-blended butter which contains a preservative prohibited by any regulation made under this Act, or an amount of a preservative in excess of the limit allowed by any such regulation;

and in the said section the words "adulterated or impoverished butter (other than margarine) or", and the words "butter or" shall be repealed.

(2) The maximum fine for an offence under the said section one, as amended by this section, shall, where the article in respect of which the offence was committed is butter, margarine, margarine cheese, or milk-blended butter, be either such as is provided in the said section one, or, at the election of the Commissioners of Customs, a fine equal to the value of the goods imported bearing the same



mark or description, to be estimated and taken according to the rate and price for which goods of the like kind but of the best quality were sold at or about the time of the importation.

(3) In any proceeding under the said section one as amended by this section the certificate of the principal chemist of the Government Laboratories, or, if the person who made the analysis be called as a witness, the evidence of that person, that an imported substance is margarine or milk-blended butter shall raise a presumption, until the contrary is proved, that the substance is margarine or milk-blended butter, and the defendant shall not be entitled to require the person who made the analysis to be called as a witness unless he shall, at least three clear days before the return day, give notice to the prosecutor that he requires his attendance, and deposit with the prosecutor a sum sufficient to cover the reasonable costs and expenses of his attendance, which costs and expenses shall be paid by the defendant in the event of his conviction.

(4) Where a sample taken under the said section one as amended by this section is certified by the principal chemist to be margarine or milk-blended butter the Commissioners of Customs shall upon receiving the certificate forthwith notify the importer thereof.

6. *Regulations as to milk-solids in butter.*—The power of making regulations under section four of the Sale of Food and Drugs Act, 1899, shall extend to making regulations as to the proportion of any milk-solid other than milk-fat in any sample of butter or milk-blended butter.

7. *Regulations as to preservatives.*—(1) The local Government Board may, after such inquiry as they deem necessary, make regulations for prohibiting the use as a preservative of any substance specified in such regulations in the manufacture or preparation for sale of butter, margarine, or milk-blended butter, or for limiting the extent to which, either generally or as regards any particular substance or substances, preservatives may be used in the manufacture or preparation for sale of butter, margarine, or milk-blended butter.

(2) Any regulations made under this section shall be notified in the London, Edinburgh, or Dublin Gazette as the case may require, and shall also be made known in such other manner as the Local Government Board may direct.

(3) Any person who manufactures, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, any butter, margarine, or milk-blended butter which contains a preservative prohibited by a regulation under this section or an amount of a preservative in excess of the limit allowed by any such regulation, shall be guilty of an offence under this Act.

8. *Marking of wrappers, &c., used in connection with margarine.*—If in any wrapper enclosing margarine, or on any package containing margarine, or on any label attached to a parcel of margarine, or in any advertisement or invoice of margarine a person dealing in margarine describes it by any name other than either "margarine," or a name combining the word "margarine" with a fancy or other descriptive name approved by the Board of Agriculture and Fisheries and printed in type not larger than and in the same colour as the word "margarine," he shall be guilty of an offence under this Act.

9. *Regulation of sale of milk-blended butter.*—(1) Milk-blended butter shall be dealt with under such name or names as may be approved by the Board of Agriculture and Fisheries and under the conditions applicable to the sale or description of margarine, with the substitution of an approved name for the word "margarine," and with this modification, that, in any case where, in order to comply with those conditions, the article is delivered to the purchaser in a wrapper, there shall, in addition to the approved name, be printed on the wrapper in such manner as the Board approve such description of the article, setting out the percentage of moisture or water contained therein, as may be approved by the Board.

(2) Milk-blended butter, whenever forwarded by any public conveyance, shall be duly consigned under the name which, as respects the article consigned, has been approved by the Board under this section; subject to this modification, section eight of the Margarine Act, 1887, shall apply to

milk-blended butter in like manner as it applies to margarine.

(3) If any person deals with, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, or describes any milk-blended butter contrary to the provisions of this section, he shall be guilty of an offence under this Act, but any defence which would be a defence under section seven of the Margarine Act, 1887, as respects margarine, shall be a defence under this section as respects milk-blended butter.

10. *Names of margarine, &c.*—A name shall not be approved by the Board of Agriculture and Fisheries for use in connection with margarine if it refers to or is suggestive of butter or anything connected with the dairy interest, nor shall such a name be approved as a name under which milk-blended butter may be imported or dealt with.

11. *Penalties for offences.*—(1) Any person guilty of an offence under this Act shall be liable on conviction under the Summary Jurisdiction Acts for a first offence to a fine not exceeding twenty pounds and for a second offence to a fine not exceeding fifty pounds and for a third or any subsequent offence to a fine not exceeding one hundred pounds, and in cases where imprisonment can be inflicted under section seventeen of the Sale of Food and Drugs Act, 1899, to such imprisonment as is by that section authorised.

(2) Section five of the Margarine Act, 1887 (which exempts employers from liability in certain cases), and section eleven of the same Act (which relates to the appropriation of penalties), and section twelve of the same Act (which relates to proceedings under that Act), shall apply to proceedings under this Act, with the substitution of references to this Act for references to the Margarine Act, 1887.

12. *Amendment of s. 8 of Margarine Act, 1887.*—Except in the Administrative County of London, section eight of the Margarine Act, 1887, shall have effect as if the words "inspector of weights and measures" were inserted after the word "nuisances."

13. *Definition of margarine.*—(1) For the purposes of the Sale of Food and Drugs Acts and this Act the expression "margarine" shall mean any article of food, whether mixed with butter or not, which resembles butter and is not milk-blended butter.

(2) The above definition shall be substituted for the definition of margarine in the Margarine Act, 1887.

14. *Short title, construction, and commencement.*—(1) This Act may be cited as the Butter and Margarine Act 1907, and shall be construed as one with the Sale of Food and Drugs Act, 1899, and may be cited with the Sale of Food and Drugs Acts as the Sale of Food and Drugs Acts, 1875 to 1907.

(2) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

## CHAPTER 22.

[*Petty Sessions Clerk (Ireland) Amendment Act, 1907.*]

An Act to amend the Law relating to Clerks of Petty Sessions in Ireland.

[21st August 1907.]

## CHAPTER 23.

[*Criminal Appeal Act, 1907.*]

An Act to establish a Court of Criminal Appeal and to amend the Law relating to Appeals in Criminal Cases.

[28th August 1907.]

Be it enacted, &c.:

### COURT OF CRIMINAL APPEAL.

1. *Constitution of Court of Criminal Appeal.*—(1) There shall be a Court of Criminal Appeal, and the Lord Chief Justice of England and eight judges of the King's Bench Division of the High Court, appointed for the purpose by the Lord Chancellor with the consent of the Lord Chancellor for such period as he thinks desirable in each case, shall be judges of that court.

(2) For the purpose of hearing and determining appeals under this Act, and for the purpose of any other proceedings under this Act, the Court of Criminal Appeal shall be summoned in accordance with directions given by the Lord Chief Justice of England with the consent of the Lord Chancellor, and the court shall be duly constituted if it consists of not less than three judges and of an uneven number of judges.

If the Lord Chief Justice so directs, the court may sit in two or more divisions.

The court shall sit in London except in cases where the Lord Chief Justice gives special directions that it shall sit at some other place.

(3) The Lord Chief Justice, if present, and in his absence the senior member of the Court, shall be president of the court.

(4) The determination of any question before the Court of Criminal Appeal shall be according to the opinion of the majority of the members of the court hearing the case.

(5) Unless the court direct to the contrary in cases where, in the opinion of the court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the court, the judgment of the court shall be pronounced by the president of the court or such other member of the court hearing the case as the president of the court directs, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the court.

(6) If in any case the director of public prosecutions or the prosecutor or defendant obtains the certificate of the Attorney-General that the decision of the Court of Criminal Appeal involves a point of law of exceptional public importance, and that it is desirable in the public interest that a further appeal should be brought, he may appeal from that decision to the House of Lords, but subject thereto the determination by the Court of Criminal Appeal of any appeal or other matter which it has power to determine shall be final, and no appeal shall lie from that court to any other court.

(7) The Court of Criminal Appeal shall be a superior court of record, and shall, for the purposes of and subject to the provisions of this Act, have full power to determine, in accordance with this Act, any questions necessary to be determined for the purpose of doing justice in the case before the court.

(8) Rules of court shall provide for securing sittings of the Court of Criminal Appeal, if necessary, during vacation.

(9) Any direction which may be given by the Lord Chief Justice under this section may, in the event of any vacancy in that office, or in the event of the incapacity of the Lord Chief Justice to act from any reason, be given by the senior judge of the Court of Criminal Appeal.

2. *Registrar of the Court of Criminal Appeal.*—There shall be a Registrar of the Court of Criminal Appeal (in this Act referred to as the Registrar) who shall be appointed by the Lord Chief Justice from among the Masters of the Supreme Court acting in the King's Bench Division, and shall be entitled to such additional salary (if any), and be provided with such additional staff (if any), in respect of the office of Registrar as the Lord Chancellor, with the concurrence of the Treasury, may determine.

The senior Master of the Supreme Court shall be the first Registrar.

### RIGHT OF APPEAL AND DETERMINATION OF APPEALS.

3. *Right of appeal in criminal cases.*—A person convicted on indictment may appeal under this Act to the Court of Criminal Appeal—

- against his conviction on any ground of appeal which involves a question of law alone; and
- with the leave of the Court of Criminal Appeal or upon the certificate of the Judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground which appears to the court to be a sufficient ground of appeal; and
- with the leave of the Court of Criminal Appeal against the sentence passed on his

conviction, unless the sentence is one fixed by law.

4. *Determination of appeals in ordinary cases.*—(1) The Court of Criminal Appeal on any such appeal against conviction shall allow the appeal if they think that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence, or that the judgment of the court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Act, the Court of Criminal Appeal shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(3) On an appeal against sentence the Court of Criminal Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as they think ought to have been passed, and in any other case shall dismiss the appeal.

5. *Powers of court in special cases.*—(1) If it appears to the Court of Criminal Appeal that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as they think proper, and as may be warranted in law by the verdict on the count or part of the indictment on which the court consider that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Criminal Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence, the court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Court of Criminal Appeal consider that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Court of Criminal Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on any appeal it appears to the Court of Criminal Appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the court may quash the sentence passed at the trial and order the appellant to be kept in custody as a criminal lunatic under the Trial of Lunatics Act, 1883 [46 & 47 Vict. c. 38], in the same manner as if a special verdict had been found by the jury under that Act.

6. *Re-vesting and restitution of property on conviction.*—The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation in case of any such conviction, of the provisions of sub-section (1) of section twenty-four of the Sale of Goods Act, 1893 [56 & 57 Vict. c. 71], as to the re-vesting of the property in stolen goods on conviction, shall (unless the Court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

(a) in any case until the expiration of ten days after the date of the conviction; and

(b) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or the operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal. Provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said provisions.

(3) The Court of Criminal Appeal may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

#### PROCEDURE.

7. *Time for appealing.*—(1) Where a person convicted desires to appeal under this Act to the Court of Criminal Appeal, or to obtain the leave of that Court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within ten days of the date of conviction: Such rules shall enable any convicted person to present his case and his argument in writing instead of by oral argument if he so desires. Any case or argument so presented shall be considered by the court.

Except in the case of a conviction involving sentence of death, the time within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court of Criminal Appeal.

(2) In the case of a conviction involving sentence of death or corporal punishment—

(a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

8. *Judge's notes and report to be furnished on appeal.*—The judge or chairman of any court before whom a person is convicted shall, in the case of an appeal under this Act against the conviction or against the sentence, or in the case of an application for leave to appeal under this Act, furnish to the Registrar, in accordance with rules of court, his notes of the trial; and shall also furnish to the Registrar in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case.

9. *Supplemental powers of court.*—For the purposes of this Act, the Court of Criminal Appeal may, if they think it necessary or expedient in the interest of justice,—

(a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to them necessary for the determination of the case; and

(b) if they think fit order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the court, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in manner provided by rules of court before any judge of the court or before any officer of the court or justice of the peace or other person appointed by the court for the purpose, and allow the admission of any depositions so taken as evidence before the court; and

(c) if they think fit receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant makes

an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such an application; and

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the court conveniently be conducted before the court, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the court, and act upon the report of any such commissioner so far as they think fit to adopt it; and

(e) appoint any person with special expert knowledge to act as assessor to the court in any case where it appears to the court that such special knowledge is required for the proper determination of the case;

and exercise in relation to the proceedings of the court any other powers which may for the time being be exercised by the court of appeal on appeals in civil matters, and issue any warrants necessary for enforcing the orders or sentences of the court: Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

10. *Legal assistance to appellant.*—The Court of Criminal Appeal may at any time assign to an appellant a solicitor and counsel or counsel only in any appeal or proceedings preliminary or incidental to an appeal in which, in the opinion of the court, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

11. *Right of appellant to be present.*—(1) An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but, in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide that he shall have the right to be present, or where the court gives him leave to be present.

(2) The power of the court to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

12. *Duty of Director of Public Prosecutions.*—It shall be the duty of the Director of Public Prosecutions to appear for the Crown on every appeal to the Court of Criminal Appeal under this Act, except so far as the solicitor of a Government department, or a private prosecutor in the case of a private prosecution, undertakes the defence of the appeal, and the Prosecution of Offences Act, 1879 [42 & 43 Vict. c. 22], shall apply as though the duty of the Director of Public Prosecutions under this section were a duty under section two of that Act, and provision shall be made by rules of court for the transmission to the Director of Public Prosecutions of all such documents, exhibits, and other things connected with the proceedings as he may require for the purpose of his duties under this section.

13. *Costs of appeal.*—(1) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto under this Act no costs shall be allowed on either side.

(2) The expenses of any solicitor or counsel assigned to an appellant under this Act, and the expenses of any witnesses attending on the order of the court or examined in any proceedings incidental to the appeal, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to any examination of witnesses conducted by any person appointed by the court for the purpose, or any reference of a question to a special commissioner appointed by the court, or of any person appointed as assessor to the court, shall be defrayed, up to an amount allowed by the court, but subject to any regulations as to rates and scales of payment made by the Secretary of State, in the same manner as the expenses of a prosecution in cases of felony.



**14. Admission of appellant to bail, and custody when attending court.**—(1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated in such manner as may be directed by prison rules within the meaning of the Prison Act, 1898 [61 & 62 Vict. c. 41].

(2) The Court of Criminal Appeal may, if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

(3) The time during which an appellant, pending the determination of his appeal, is admitted to bail, and subject to any directions which the Court of Criminal Appeal may give to the contrary on any appeal, the time during which the appellant, if in custody, is specially treated as an appellant under this section shall not count as part of any term of imprisonment or penal servitude under his sentence, and, in the case of an appeal under this Act, any imprisonment or penal servitude under the sentence of the appellant, whether it is the sentence passed by the court of trial or the sentence passed by the Court of Criminal Appeal, shall, subject to any directions which may be given by the Court as aforesaid, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined, and, if he is not in custody, as from the day on which he is received into prison under the sentence.

(4) Where a case is stated under the Crown Cases Act, 1848 [11 & 12 Vict. c. 78], this section shall apply to the person in relation to whose conviction the case is stated as it applies to an appellant.

(5) Provision shall be made by prison rules within the meaning of the Prison Act, 1898, for the manner in which an appellant, when in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act, or to any place to which the Court of Criminal Appeal or any judge thereof may order him to be taken for the purpose of any proceedings of that court, and for the manner in which he is to be kept in custody while absent from prison for the purpose; and an appellant while in custody in accordance with those rules shall be deemed to be in legal custody.

**15. Duties of registrar with respect to notices of appeal, &c.**—(1) The registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications, notices of which is given to him under this Act, and shall obtain and lay before the court in proper form all documents, exhibits, and other things relating to the proceedings in the court before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the registrar that any notice of an appeal against a conviction purporting to be on a ground of appeal which involves a question of law alone does not show any substantial ground of appeal, the registrar may refer the appeal to the court for summary determination, and, where the case is so referred, the court may, if they consider that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment, who, if convicted, is entitled or may be authorized to appeal under this Act, shall be kept in the custody of the court of trial in accordance with rules of court made for the purpose, for such time as may be provided by the rules, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) The registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application under this Act to any person who demands the same, and to officers of courts, governors of prisons, and such other officers or persons as he thinks fit, and the governor of a prison shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under this Act, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the registrar.

(5) The registrar shall report to the court or some judge thereof any case in which it appears to him that, although no application has been made for the purpose, a solicitor and counsel or counsel only ought to be assigned to an appellant under the powers given to the Court by this Act.

**16. Shorthand notes of trial.**—(1) Shorthand notes shall be taken of the proceedings at the trial of any person on indictment who, if convicted, is entitled or may be authorized to appeal under this Act, and on any appeal or application for leave to appeal a transcript of the notes or any part thereof shall be made if the registrar so directs, and furnished to the registrar for the use of the Court of Criminal Appeal or any judge thereof: Provided that a transcript shall be furnished to any party interested upon the payment of such charges as the Treasury may fix.

(2) The Secretary of State may also, if he thinks fit in any case, direct a transcript of the shorthand notes to be made and furnished to him for his use.

(3) The cost of taking any such shorthand notes, and of any transcript where a transcript is directed to be made by the registrar or by the Secretary of State, shall be defrayed, in accordance with scales of payment fixed for the time being by the Treasury, out of moneys provided by Parliament, and rules of court may make such provision as is necessary for securing the accuracy of the notes to be taken and for the verification of the transcript.

**17. Powers which may be exercised by a judge of the Court.**—The powers of the Court of Criminal Appeal under this Act to give leave to appeal, to extend the time within which notice of appeal or of an application for leave to appeal may be given, to assign legal aid to an appellant, to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave, and to admit an appellant to bail, may be exercised by any judge of the Court of Criminal Appeal in the same manner as they may be exercised by the Court, and subject to the same provisions; but, if the judge refuses an application on the part of the appellant to exercise any such power in his favour, the appellant shall be entitled to have the application determined by the Court of Criminal Appeal as duly constituted for the hearing and determining of appeals under this Act.

**18. Rules of court.**—(1) Rules of court for the purposes of this Act shall be made, subject to the approval of the Lord Chancellor, and so far as the rules affect the governor or any other officer of a prison, or any officer having the custody of an appellant, subject to the approval also of the Secretary of State, by the Lord Chief Justice and the judges of the Court of Criminal Appeal, or any three of such judges, with the advice and assistance of the Committee herein-after mentioned. Rules so made may make provision with respect to any matter for which provision is to be made under this Act by rules of court, and may regulate generally the practice and procedure under this Act, and the officers of any court before whom an appellant has been convicted, and the governor or other officers of any prison or other officer having the custody of an appellant and any other officers or persons, shall comply with any requirements of those rules so far as they affect those officers or persons, and compliance with those rules may be enforced by order of the Court of Criminal Appeal.

(2) The Committee herein-before referred to shall consist of a chairman of quarter sessions appointed by a Secretary of State, the Permanent Under Secretary of State for the time being for the Home Department, the Director of Public Prosecutions for the time being, the Registrar of the Court of Criminal Appeal, and a clerk of assize, and a clerk of the peace appointed by the Lord Chief Justice, and a solicitor appointed by the President of the Law Society for the time being, and a barrister appointed by the General Council of the Bar. The term of office of any person who is a member of the Committee by virtue of appointment shall be such as may be specified in the appointment.

(3) Every rule under this Act shall be laid before each House of Parliament forthwith, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent thirty days on which the House has sat next after any such rule is laid before it, praying that the rule

may be annulled, His Majesty in Council may annul the rule, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

SUPPLEMENTAL.

**19. Prerogative of mercy.**—Nothing in this Act shall affect the prerogative of mercy, but the Secretary of State on the consideration of any petition for the exercise of His Majesty's mercy, having reference to the conviction of a person on indictment or to the sentence (other than sentence of death) passed on a person so convicted, may, if he thinks fit, at any time either—

(a) refer the whole case to the Court of Criminal Appeal, and the case shall then be heard and determined by the Court of Criminal Appeal as in the case of an appeal by a person convicted; or

(b) if he desires the assistance of the Court of Criminal Appeal on any point arising in the case with a view to the determination of the petition, refer that point to the Court of Criminal Appeal for their opinion thereon, and the Court shall consider the point so referred and furnish the Secretary of State with their opinion thereon accordingly.

**20. Criminal informations, procedure in the High Court, &c.**—(1) Write of error, and the powers and practice now existing in the High Court in respect of motions for new trials or the granting thereof in criminal cases, are hereby abolished.

(2) This Act shall apply in the case of convictions on criminal informations and coroners' inquisitions and in cases where a person is dealt with by a court of quarter sessions as an incorrigible rogue under the Vagrancy Act, 1824 [5 Geo. 4, c. 83], as it applies in the case of convictions on indictments, but shall not apply in the case of convictions on indictments or inquisitions charging any peer or peeress, or other person claiming the privilege of peerage, with any offence not now lawfully triable by a court of assize.

(3) Notwithstanding anything in any other Act, an appeal shall lie from a conviction on indictment at common law in relation to the non-repair or obstruction of any highway, public bridge, or navigable river in whatever court the indictment is tried, in all respects as though the conviction were a verdict in a civil action tried at assizes, and shall not lie under this Act.

(4) All jurisdiction and authority under the Crown Cases Act, 1848, in relation to questions of law arising in criminal trials which is transferred to the judges of the High Court by section forty-seven of the Supreme Court of Judicature Act, 1873 [36 & 37 Vict. c. 66], shall be vested in the Court of Criminal Appeal under this Act, and in any case where a person convicted appeals under this Act against his conviction on any ground of appeal which involves a question of law alone, the Court of Criminal Appeal may, if they think fit, decide that the procedure under the Crown Cases Act, 1848, as to the statement of a case should be followed, and require a case to be stated accordingly under that Act in the same manner as if a question of law had been reserved.

**21. Definitions.**—In this Act, unless the context otherwise requires,—

The expression "appellant" includes a person who has been convicted and desires to appeal under this Act; and

The expression "sentence" includes any order of the court made on conviction with reference to the person convicted or his wife or children, and any recommendation of the court as to the making of an expulsion order in the case of a person convicted, and the power of the Court of Criminal Appeal to pass a sentence includes a power to make any such order of the Court or recommendation, and a recommendation so made by the Court of Criminal Appeal shall have the same effect for the purposes of section three of the Aliens Act, 1905 [5 Edw. 7, c. 13], as the certificate and recommendation of the convicting Court.

**22. Appeal.**—The Acts specified in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

**23. Short title, extent, and application.**—(1) This Act may be cited as the Criminal Appeal Act, 1907.  
(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall apply to all persons convicted after the eighteenth day of April nineteen hundred and eight, but shall not affect the rights, as respects appeal, of any persons convicted on or before that date.

## SCHEDULE.

## ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
7 & 8 Will. 3, c. 3.	The Treason Act, 1695.	In section nine, from "but nevertheless" to the end of the section.
11 & 12 Vict. c. 78.	The Crown Cases Act, 1848.	Sections three and five.
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	In section nineteen, the words "including the practice and procedure with respect to Crown cases reserved."
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	Section fifteen.

## CHAPTER 24.

## [Limited Partnerships Act, 1907.]

## An Act to establish Limited Partnerships.

[28th August 1907.]

Be it enacted, &amp;c.:

1. *Short title.* This Act may be cited for all purposes as the Limited Partnerships Act, 1907.

2. *Commencement of Act.* This Act shall come into operation on the first day of January one thousand nine hundred and eight.

3. *Interpretation of terms.* In the construction of this Act the following words and expressions shall have the meanings respectively assigned to them in this section, unless there be something in the subject or context repugnant to such construction:—

"Firm," "firm name," and "business" have the same meanings as in the Partnership Act, 1890 [53 & 54 Vict. c. 39];

"General partner" shall mean any partner who is not a limited partner as defined by this Act.

4. *Definition and constitution of limited partnership.*—(1) From and after the commencement of this Act limited partnerships may be formed in the manner and subject to the conditions by this Act provided.

(2) A limited partnership shall not consist, in the case of a partnership carrying on the business of banking, of more than ten persons, and, in the case of any other partnership, of more than twenty persons, and must consist of one or more persons called general partners, who shall be liable for all debts and obligations of the firm, and one or more persons to be called limited partners, who shall at the time of entering into such partnership contribute thereto a sum or sums as capital or property valued at a stated amount, and who shall not be liable for the debts or obligations of the firm beyond the amount so contributed.

(3) A limited partner shall not during the continuance of the partnership, either directly or indirectly, draw out or receive back any part of his contribution, and if he does so draw out or receive back any such part shall be liable for the debts and obligations of the firm up to the amount so drawn out or received back.  
(4) A body corporate may be a limited partner.

5. *Registration of limited partnership re-*

quired.] Every limited partnership must be registered as such in accordance with the provisions of this Act, or in default thereof it shall be deemed to be a general partnership, and every limited partner shall be deemed to be a general partner.

6. *Modifications of general law in case of limited partnerships.*—(1) A limited partner shall not take part in the management of the partnership business, and shall not have power to bind the firm:

Provided that a limited partner may by himself or his agent at any time inspect the books of the firm and examine into the state and prospects of the partnership business, and may advise with the partners thereon.

If a limited partner takes part in the management of the partnership business he shall be liable for all debts and obligations of the firm incurred while he so takes part in the management as though he were a general partner.

(2) A limited partner shall not be dissolved by the death or bankruptcy of a limited partner, and the lunacy of a limited partner shall not be a ground for dissolution of the partnership by the court unless the lunatic's share cannot be otherwise ascertained and realised.

(3) In the event of the dissolution of a limited partnership its affairs shall be wound up by the general partners unless the court otherwise orders.

(4) Application to the court to wind up a limited partnership shall be by petition under the Companies Acts, 1862 to 1900, and the provisions of those Acts relating to the winding-up of companies by the court and of the rules made thereunder (including provisions as to fees) shall, subject to such modifications (if any) as the Lord Chancellor, with the concurrence of the President of the Board of Trade, may by rules provide, apply to the winding-up by the court of limited partnerships, with the substitution of general partners for directors.

(5) Subject to any agreement expressed or implied between the partners—

(a) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the general partners;

(b) A limited partner may, with the consent of the general partners, assign his share in the partnership, and upon such an assignment the assignee shall become a limited partner with all the rights of the assignor;

(c) The other partners shall not be entitled to dissolve the partnership by reason of any limited partner suffering his share to be charged for his separate debt;

(d) A person may be introduced as a partner without the consent of the existing limited partners;

(e) A limited partner shall not be entitled to dissolve the partnership by notice.

7. *Law as to private partnerships to apply where not excluded by this Act.* Subject to the provisions of this Act, the Partnership Act, 1890 [53 & 54 Vict. c. 39] and the rules of equity and of common law applicable to partnerships, except so far as they are inconsistent with the express provisions of the last-mentioned Act, shall apply to limited partnerships.

8. *Manner and particulars of registration.* The registration of a limited partnership shall be effected by sending by post or delivering to the registrar at the register office in that part of the United Kingdom in which the principal place of business of the limited partnership is situated or proposed to be situated a statement signed by the partners containing the following particulars:—

(a) The firm name;

(b) The general nature of the business;

(c) The principal place of business;

(d) The full name of each of the partners;

(e) The term, if any, for which the partnership is entered into, and the date of its commencement;

(f) A statement that the partnership is limited, and the description of every limited partner as such;

(g) The sum contributed by each limited partner, and whether paid in cash or how otherwise.

9. *Registration of changes in partnerships.*—(1) If during the continuance of a limited partnership any change is made or occurs in—

(a) the firm name,

(b) the general nature of the business,

(c) the principal place of business,

(d) the partners or the name of any partner,

(e) the term or character of the partnership,

(f) the sum contributed by any limited partner,

(g) the liability of any partner by reason of his becoming a limited instead of a general partner or a general instead of a limited partner,

a statement, signed by the firm, specifying the nature of the change shall within seven days be sent by post or delivered to the registrar at the register office in that part of the United Kingdom in which the partnership is registered.

(2) If default is made in compliance with the requirements of this section each of the general partners shall on conviction under the Summary Jurisdiction Acts be liable to a fine not exceeding one pound for each day during which the default continues.

10. *Advertisement in Gazette of statement of general partner becoming a limited partner and of assignment of share of limited partner.*—

(1) Notice of any arrangement or transaction under which any person will cease to be a general partner in any firm, and will become a limited partner in that firm, or under which the share of a limited partner in a firm will be assigned to any person, shall be forthwith advertised in the Gazette, and until notice of the arrangement or transaction is so advertised, the arrangement or transaction shall, for the purposes of this Act, be deemed to be of no effect.

(2) For the purposes of this section, the expression "the Gazette" means—

In the case of a limited partnership registered in England, the London Gazette;

In the case of a limited partnership registered in Scotland, the Edinburgh Gazette;

In the case of a limited partnership registered in Ireland, the Dublin Gazette.

11. *Ad valorem stamp duty on contributions by limited partners.* The statement of the amount contributed by a limited partner, and a statement of any increase in that amount, sent to the registrar for registration under this Act, shall be charged with an ad valorem stamp duty of five shillings for every one hundred pounds, and any fraction of one hundred pounds over any multiple of one hundred pounds, of the amount so contributed, or of the increase of that amount, as the case may be; and in default of payment of stamp duty thereon as herein required, the duty with interest thereon at the rate of five per cent. per annum from the date of delivery of such statement shall be a joint and several debt to His Majesty, recoverable from the partners, or any of them, in the said statements named, or, in the case of an increase, from all or any of the said partners whose discontinuance in the firm shall not, before the date of delivery of such statement of increase, have been duly notified to the registrar.

12. *Making false returns to be misdemeanor.* Every one commits a misdemeanor, and shall be liable to imprisonment with hard labour for a term not exceeding two years, who makes, signs, sends, or delivers for the purpose of registration under this Act any false statement known by him to be false.

13. *Registrar to file statement and issue certificate of registration.* On receiving any statement made in pursuance of this Act the registrar shall cause the same to be filed, and he shall send by post to the firm from whom such statement shall have been received a certificate of the registration thereof.

14. *Register and index to be kept.* At each of the register offices herein-after referred to the registrar shall keep, in proper books to be



provided for the purpose, a register and an index of all the limited partnerships registered as aforesaid, and of all the statements registered in relation to such partnerships.

15. *Registrar of joint stock companies to be registrar under Act.* The registrar of joint stock companies shall be the registrar of limited partnerships, and the several offices for the registration of joint stock companies in London, Edinburgh, and Dublin shall be the offices for the registration of limited partnerships carrying on business within those parts of the United Kingdom in which they are respectively situated.

16. *Inspection of statements registered.*—(1) Any person may inspect the statements filed by the registrar in the register offices aforesaid, and there shall be paid for such inspection such fees as may be appointed by the Board of Trade, not exceeding one shilling for each inspection; and any person may require a certificate of the registration of any limited partnership, or a copy of or extract from any registered statement, to be certified by the registrar, and there shall be paid for such certificate of registration, certified copy, or extract such fees as the Board of Trade may appoint, not exceeding two shillings for the certificate of registration, and not exceeding sixpence for each folio of seventy-two words, or in Scotland for each sheet of two hundred words.

(2) A certificate of registration, or a copy of or extract from any statement registered under this Act, if duly certified to be a true copy under the hand of the registrar or one of the assistant registrars (whom it shall not be necessary to prove to be the registrar or assistant registrar) shall, in all legal proceedings, civil or criminal, and in all cases whatsoever be received in evidence.

17. *Power to Board of Trade to make rules.* The Board of Trade may make rules (but as to fees with the concurrence of the Treasury) concerning any of the following matters:—

- The fees to be paid to the registrar under this Act, so that they do not exceed in the case of the original registration of a limited partnership the sum of two pounds, and in any other case the sum of five shillings;
- The duties or additional duties to be performed by the registrar for the purposes of this Act;
- The performance by assistant registrars and other officers of acts by this Act required to be done by the registrar;
- The forms to be used for the purposes of this Act;
- Generally the conduct and regulation of registration under this Act and any matters incidental thereto.

## CHAPTER 25.

[*Commissioners for Oaths (Prize Proceedings) Act, 1907.*]

An Act for amending the Law relating to the Administration of Oaths for the purpose of Proceedings in Prize Courts.

[28th August 1907.]

Be it enacted, &c.:

1. *Power of officers to administer oaths in prize proceedings.* There shall be added to section four of the Commissioners for Oaths Act, 1889 [52 Vict. c. 10] (which relates to the appointment of persons to administer oaths in prize proceedings), the following provisions:—

"Any officer for the time being holding any prescribed office on board any of His Majesty's ships, or any of His Majesty's ships of any prescribed class, shall, whilst on the high seas or out of His Majesty's dominions, by virtue of his office be empowered to administer oaths and take affidavits for any purpose relating to proceedings in any prize court within the meaning of the Naval Prize Act, 1864 [27 & 28 Vict. c. 25], as amended by any subsequent enactment.

"In this section the expression 'prescribed' means prescribed in any regulations made by the Admiralty with the consent of the Lord Chancellor, and the expression 'His Majesty's ships' includes

any of His Majesty's vessels of war and any hired ship or vessel in His Majesty's service.

"Any document purporting to have subscribed thereto the signature of any person authorised by or under this section to administer an oath, in testimony of any oath or affidavit being administered or taken before him, shall be admitted in evidence without proof of the signature being the signature of that person, or of the official character of that person."

2. *Short title.* This Act may be cited as the Commissioners for Oaths (Prize Proceedings) Act, 1907, and the Commissioners for Oaths Act, 1889 and 1891 [52 Vict. c. 10, 54 & 55 Vict. c. 50], and the Commissioners for Oaths Amendment Act, 1890 [53 & 54 Vict. c. 7], and this Act may be cited together as the Commissioners for Oaths Acts, 1889 to 1907.

## CHAPTER 26.

[*Isle of Man (Customs) Act, 1907.*]

An Act to amend the Law with respect to Customs Duties in the Isle of Man.

[28th August 1907.]

## CHAPTER 27.

[*Advertisements Regulation Act, 1907.*]

An Act to authorise Local Authorities to make Byelaws respecting the Exhibition of Advertisements.

[28th August 1907.]

Be it enacted, &c.:

1. *Short title.* This Act may be cited as the Advertisements Regulation Act, 1907.

2. *Local authorities to have power to make byelaws for regulation of advertisements.* Any local authority may make byelaws—

- For the regulation and control of hoardings and similar structures used for the purpose of advertising when they exceed twelve feet in height;
- For regulating, restricting, or preventing the exhibition of advertisements in such places and in such manner, or by such means, as to affect injuriously the amenities of a public park or pleasure promenade, or to disfigure the natural beauty of a landscape:

Provided that a local authority in making byelaws under this section shall provide for the exemption from the operation of such byelaws of any hoardings and similar structures in use for advertising purposes at the time of the making of the byelaws, and of any advertisements exhibited at that time, for such period, not being less than five years from that time, as they may think fit.

3. *Byelaws to be confirmed by Secretary of State.*—

(1) A byelaw made under this Act shall not have any effect until confirmed by the Secretary of State, and shall not be so confirmed until at least thirty days after the local authority have published it in such manner as the Secretary of State may by general or special order direct.

(2) The Secretary of State shall, before confirming any byelaw, consider any objections to it which may be addressed to him by persons affected or likely to be affected thereby.

(3) The Secretary of State may, before confirming any byelaw, order that a local inquiry be held with respect to the byelaw or with respect to any objections thereto. The person holding any such inquiry shall receive such remuneration as the Secretary of State may determine, and that remuneration and the expenses of the local inquiry shall be paid by the local authority making the byelaw.

(4) Byelaws made under this Act may apply either to the whole of the area of the local authority, or to any specified part thereof.

(5) Byelaws made by a county council shall not be of any force or effect within any borough or urban district the council of which is a local authority under this Act:

(6) The production of a copy of any byelaw certified by a person purporting to be the clerk of the local authority to be a true copy shall, until the contrary is proved, be evidence of the byelaw and of the due making thereof, and, if it is so stated in the certificate, of the byelaw having been duly confirmed.

4. *Expenses.* Any expenses incurred by a local authority in England or Ireland in carrying into effect the provisions of this Act or any byelaw made thereunder shall be defrayed in the case of a county out of the county fund, in the case of the city of London out of the consolidated rate of that city, in the case of a borough out of the borough fund or borough rate, and in the case of an urban district as part of the general expenses incurred in the execution of the Public Health Acts: Provided that a county council shall not raise any sum on account of their expenses under this Act within any borough or urban district the council of which is a local authority under this Act.

5. *Powers of Act to be in addition to any existing powers.* The powers and provisions of this Act shall be deemed to be in addition to and not in derogation of any powers and provisions of any local Act, and any powers of making byelaws under any general Act and any such powers and provisions may be exercised and enforced in the same manner as if this Act had not been passed.

6. *Application to Scotland.* In the application of this Act to Scotland—

- The Secretary for Scotland shall be substituted for the Secretary of State;
- Byelaws made by a county council shall not be of any force or effect within a royal, parliamentary, or police burgh;
- A county council may make byelaws under this Act for preventing the affixing or otherwise exhibiting advertisements upon any wall, tree, fence, gate, or elsewhere on private property, without the consent of either the owner or occupier previously given in writing, or except by virtue of some other sufficient legal authority;
- The section of this Act relating to expenses shall apply with the substitution of "general purposes rate" for "county fund," "royal, parliamentary, or police burgh" for "borough," and "burgh general or police assessment" for "borough fund or borough rate."

7. *Definition.* For the purpose of this Act the expression "local authority" means—

- Within the city of London, the mayor, aldermen, and commons of that city, in common council assembled;
- Within any municipal borough in England, the council of that borough;
- Within any royal, parliamentary, or police burgh in Scotland, the town council;
- Within any urban district in England containing a population according to the last census for the time being of over ten thousand, and within any urban district in Ireland containing a population according to the last census for the time being of over five thousand, the council of that district;
- Elsewhere in England, Scotland, or Ireland, the county council.

8. *Enforcement of byelaws of London County Council.* It shall be the duty of every metropolitan borough council to enforce within its own area any byelaws made by the London County Council under paragraph (1) of section two of this Act.

9. *Application to Ireland.* In the application of this Act to Ireland the Lord Lieutenant, acting with the advice of the Privy Council, shall be substituted for the Secretary of State, the Public Health (Ireland) Acts, 1878 to 1900, shall be substituted for the Public Health Acts, and any references to a borough shall not have effect.

10. *Penalties.* If any person acts in contravention of or fails to comply with any byelaw made under this Act, he shall be liable on summary conviction to a penalty not exceeding five pounds, and to a penalty not exceeding twenty shillings for every day during which the offence is continued after his conviction thereof.

## CHAPTER 28.

[*Patents and Designs (Amendment) Act, 1907.*]

An Act to amend the Law relating to Patents and Designs.

[28th August 1907.]

Be it enacted, &c.:

PART I.

PATENTS.

1. *Grant of patents to two or more persons.*

Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a licence without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his personal representatives as part of his personal estate.

**3. Amendment of 46 & 47 Vict. c. 57, s. 5.]** Sub-sections (3) and (4) of section five of the Patents, Designs, and Trade Marks Act, 1883 (which Act, as amended by any subsequent enactment, is hereinafter referred to as the principal Act), shall be repealed and in lieu thereof shall be substituted the following:

"(3) A provisional specification must describe the nature of the invention;

"(4) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed;

"(4A) In the case of any provisional or complete specification where the comptroller deems it desirable he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the same, and such drawings shall be deemed to form part of the said specification."

**3. Deposit of samples in the case of chemical inventions.]** The following paragraph shall be inserted in section five of the principal Act:—

"(6) Where the invention in respect of which an application is made is a chemical invention, such typical samples and specimens as may be prescribed shall, if in any particular case the comptroller considers it desirable so to require, be furnished before the acceptance of the complete specification."

**4. Supplementary provisional specifications.]**

Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the comptroller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may accept one complete specification in respect of the whole of such applications and grant a single patent thereon. Such patent shall bear the date of the earliest of such applications, but, in considering the validity of the same and for the purposes of section eleven of the principal Act as modified by this Act, the court or the comptroller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed therein.

**5. Patents of addition.]—(1)** Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement on or modification of the invention, he may, if he thinks fit, in his application for the further patent, request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired.

(2) Where an application containing such a request is made, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(3) A patent of addition shall remain in force so long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal.

(4) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

**6. Extension of 2 Edw. 7, c. 34, s. 1 to specifications published subsequently to application.]—**

(1) An investigation under section one of the

Patents Act, 1902, shall extend to specifications published after the date of the application in respect of which the investigation is made, and being specifications which have been deposited pursuant to prior applications; and that section shall, subject to rules under the principal Act, have effect accordingly.

(2) Where, on such an extended investigation, it appears that the invention claimed in the specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall, whether or not his specification has been accepted or a patent granted to him, be afforded such facilities as may be prescribed for amending his specification, and in the event of his failing to do so the comptroller shall, in accordance with such procedure as may be prescribed, determine what reference, if any, to other specifications ought to be made in his specification by way of notice to the public.

(3) For the purposes of this section an application shall be deemed to be prior to another application if the patent applied for when granted would be of prior date to the patent granted pursuant to that other application.

(4) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

**7. Amendment of 2 Edw. 7, c. 34, s. 1 (6).]** The following proviso shall be added to sub-section (6) of section one of the Patents Act, 1902:—

"Provided that the comptroller, if satisfied that the invention claimed has been wholly and specifically claimed in any specification to which the investigation has extended, may, in lieu of requiring references to be made in the applicant's specification as aforesaid, refuse to grant a patent."

**8. Power to postdate application in cases of disconformity.]** The following sub-section shall be added after sub-section (3) of section nine of the principal Act, which relates to the comparison of provisional with complete specifications:—

"(3A) If the examiner reports that the invention described in the complete specification is not substantially the same as that which is described in the provisional specification, the comptroller may, with the consent of the applicant, instead of refusing to accept the complete specification, cancel the provisional specification and treat the application as having been made on the date at which the complete specification was left, and the application shall have effect as if made on that date:

"Provided that where the complete specification includes an invention not included in the provisional specification, the comptroller may allow the original application to proceed so far as the invention included both in the provisional and in the complete specification is concerned, and treat the claim for the additional invention included in the complete specification as an application for that invention made on the date at which the complete specification was left."

**9. Disconformity.]** A patent shall not be held invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant was the first and true inventor thereof.

**10. Grounds of opposition.]** In sub-section (1) of section eleven of the principal Act (which relates to the grounds on which the grant of a patent may be opposed), for the words "on the ground that the invention has been patented in this country on an application of prior date" there shall be substituted the words "on the ground that the invention has been claimed in any complete specification for a British patent which is or will be of prior date to the patent the grant of which is opposed, other than a specification deposited pursuant to an application made more than fifty years before the date

of the application for such last-mentioned patent, or on the ground that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the complete specification."

**11. Extension of period for sealing patents in certain cases.]—(1)** Where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by section twelve of the principal Act, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

(2) In such cases as may be prescribed and subject to the prescribed conditions this section shall apply where the period allowed for the sealing of the patent has expired before the commencement of this Act.

**12. Application for extension of time for payment of fees, &c.]** Where an application is made for an extension of time under section seventeen of the principal Act, it shall not be necessary for the patentee to allege or prove the cause of his failure to pay the prescribed fee within the prescribed time, and where under that section or under section three of the Patents, Designs, and Trade Marks (Amendment) Act, 1885 (48 & 49 Vict. c. 63), an application is made for an extension of time, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the full amount applied for, not exceeding the amount which he is entitled to grant under those sections.

**13. Amendment of specification by disclaimers.]** The following section shall be substituted for section nineteen of the principal Act:—

"In any action for infringement of a patent or proceedings before the court for the revocation of a patent, the court may by order allow the patentee to amend his specification by way of disclaimer in such manner and subject to such terms as to costs, advertisement, or otherwise, as the court may think fit:

"Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the court, notice of the application shall be given to the comptroller, and the comptroller shall have the right to appear and be heard, and shall appear if so directed by the court."

**14. Power of comptroller to revoke patents on certain grounds.]—(1)** Any person who has been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed:

Provided that when an action for infringement or proceedings for the revocation of the patent are pending in any court, an application under this section shall not be made except with the leave of the Court.

(2) The comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specification relating thereto to be amended by disclaimer, correction, or explanation, or dismissing the application; but the comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent had the proceedings been proceedings in an opposition to the grant of a patent.

(3) A patentee may at any time by giving notice in the prescribed manner to the comptroller offer to surrender his patent, and the comptroller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and there-



upon make an order for the revocation of the patent.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court.

**15. Revocation of patents worked outside the United Kingdom.**—(1) At any time not less than four years after the date of a patent, and not less than one year after the passing of this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom.

(2) The comptroller shall consider the application, and, if, after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the comptroller may make an order revoking the patent either—

- (a) forthwith; or
- (b) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom to an adequate extent:

Provided that no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court, and on any such appeal the law officer, or such other counsel as he may appoint, shall be entitled to appear and be heard.

**16. Compulsory licences.**—(1) Petitions for the grant of a compulsory licence or for the revocation of a patent under section three of the Patents Act, 1902, shall be referred by the Board of Trade to the court instead of to the Judicial Committee of the Privy Council, and accordingly in that section for references to the Judicial Committee there shall be substituted references to the court, and for references to Orders in Council there shall be substituted references to orders of the court, and sub-sections (8) (9) and (10) of that section shall be repealed.

(2) In lieu of sub-sections (5) and (6) of the same section the following sub-section shall be substituted:—

"(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article or any parts thereof which are necessary for its efficient working or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry, in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

"(b) if any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after the passing of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process."

**17. Procedure on petitions for extension of**

**term of patent.** The following section shall be substituted for section twenty-five of the principal Act:—

"(1) A patentee may, after advertising in manner provided by rules of the Supreme Court his intention to do so, present a petition to the court praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent;

"(2) Any person may give notice to the court of objection to the extension;

"(3) On the hearing of any petition under this section, the patentee and any person who has given such notice of objection shall be made parties to the proceeding, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court;

"(4) The court, in considering its decision, shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case;

"(5) If it appears to the court that the patentee has been inadequately remunerated by his patent, the court may by order extend the term of the patent for a further term not exceeding seven, or in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and containing any restriction, conditions, and provisions the court may think fit."

**18. Date of patent substituted for patent obtained by fraud.** A patent granted under sub-section (5) of section twenty-six of the principal Act to an inventor in lieu of a patent revoked on the ground of fraud shall bear the same date as the revoked patent, and accordingly in that sub-section the words "the date of revocation of," and the words "but the patent so granted shall cease on the expiration of the term for which the revoked patent was granted," shall be repealed:

Provided that no action shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

**19. Repeal of provisions as to procedure.** Rules of the Supreme Court may be made for regulating the matters dealt with in sub-sections (5), (6), and (7) of section twenty-six and in section twenty-nine of the principal Act, which relate to the particulars to be delivered and the procedure to be adopted in proceedings upon petition for the revocation of a patent and in an action for infringement, and on the coming into operation of any rules of court made for that purpose the said enactments shall be repealed.

**20. Time for applications by representatives of deceased inventors.** In section thirty-four of the principal Act (which relates to the grant of a patent on the application of representatives of a deceased inventor) the words "must be made within six months of the decease of such person and" are hereby repealed.

**21. Secret patents.**—(1) Section forty-four of the principal Act (which relates to secret patents) shall apply to the Admiralty in like manner as it applies to the Secretary of State for War.

(2) Rules may be made under the principal Act, after consultation with the Secretary of State and the Admiralty, for the purpose of ensuring secrecy with respect to patents to which the said section as so extended applies, and those rules may modify any of the provisions of the principal Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid.

**22. Anticipation.** A patent shall not be held to be invalid by reason only of the invention in respect of which the patent was granted, or any part thereof having been published prior to the date of the patent, if the patentee proves to the satisfaction of the court that the publication was made without his knowledge and consent, and that the matter published was derived or obtained from him, and if he learnt of the publica-

tion before the date of his application for the patent that he applied for and obtained protection for his invention with all reasonable diligence after learning of the publication.

**23. Restoration of lapsed patents.**—When any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the comptroller in the prescribed manner for an order for the restoration of the patent. Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the said prescribed fee. If it appears from such statement that the omission was unintentional and that no undue delay has occurred in making the application, the comptroller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office. Where such notice is given, the comptroller shall notify the applicant thereof. After the expiration of the prescribed period the comptroller shall hear the case, and, subject to an appeal to the court, issue an order either restoring the patent or dismissing the application: Provided that in every order under this section restoring a patent, such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had been announced as void in the illustrated official journal.

**24. Avoidance of certain conditions attached to the sale, &c., of patented articles.**—(1) It shall not be lawful in any contract made after the passing of this Act in relation to the sale or lease of, or licence to use or work any article or process protected by a patent to insert a condition the effect of which will be—

- (a) to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor, or his nominee; or
- (b) to require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominee, any article or class of articles not protected by the patent;

and any such condition shall be null and void, as being in restraint of trade and contrary to public policy: Provided that this sub-section shall not apply if—

- (i) the seller, lessor, or licensor proves that at the time the contract was entered into the purchaser, lessee, or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms, without such conditions as aforesaid; and
- (ii) the contract entitles the purchaser, lessee, or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment in compensation for such relief in the case of a purchase, of such sum, or in the case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by an arbitrator appointed by the Board of Trade.

(3) Any contract relating to the lease of or licence to use or work any patented article or patented process, whether made before or after the passing of this Act, may at any time after the patent or all the patents by which the article or process was protected at the time of the making of the contract, has or have ceased to be in force, and notwithstanding anything in the same or in any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party; but where any such notice is given determining any contract made before the passing of this Act, the party giving the notice shall be liable to pay such compensation as failing agreement may be awarded by an arbitrator appointed by the Board of Trade.

(3) Any contract made before the passing of this Act relating to the lease of or licence to use or work any patented article or process, and con-

taining any condition which, had the contract been made after the passing of this Act, would by virtue of this section have been null and void may, at any time before the contract is determinable under the last preceding subsection, and, notwithstanding anything in the same or any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party, but, where any such notice is given, the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(4) The insertion by the patentee in a contract made after the passing of this Act of any condition which by virtue of this section is null and void shall be available as a defence to an action for infringement of the patent to which the contract relates, brought while that contract is in force.

(5) Nothing in this section shall—

- (a) affect any condition in a contract whereby a person is prohibited from selling any goods other than those of a particular person; or
- (b) be construed as validating any contract which would, apart from this section, be invalid; or
- (c) affect any right of determining a contract or condition in a contract exercisable independently of this section; or
- (d) affect any condition in a contract for the lease of or licence to use a patented article, whereby the lessor or licensor reserves for himself or his nominees the right to supply such new parts of the patented article as may be required to put or keep it in repair.

**25. Defences to actions for infringement, &c.]** Any ground on which a patent may be revoked under this Act or as an alternative to the grant of a compulsory licence under section three of the Patents Act, 1902, as amended by this Act, shall be available by way of a defence to an action for infringement, and shall also be a ground of revocation under section twenty-six of the principal Act.

**26. Power to counterclaim for revocation in an action for infringement.]** A defendant in an action for infringement of a patent, if entitled to present a petition to the court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the rules of the Supreme Court by way of counter-claim in the action for the revocation of the patent.

**27. Exemption of innocent infringer from liability for damages.]** A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of such infringement he was not aware nor had reasonable means of making himself aware of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

**28. Provisions as to appeals and references to the court.]** Where by virtue of this Act a decision of the comptroller is subject to an appeal to the court, or a petition may be referred or presented to the court, the appeal shall, subject to and in accordance with rules of the Supreme Court, be made and the petition referred or presented to such judge of the High Court as the Lord Chancellor may select for the purpose, and the decision of that judge shall be final except in the case of an appeal from a decision of the comptroller revoking a patent on any ground on which the grant of such patent might have been opposed.

## PART II.

### DESIGNS.

**29. Application for the registration of designs.]** The following sub-sections shall be inserted at the end of section forty-seven of the principal Act (which relates to applications for the registration of designs):—

"(8) An application which owing to any default or neglect on the part of the applicant has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

"(9) Where an application has been abandoned or refused the application and any drawings, photographs, tracings, representations, or specimens left in connexion with the application shall not at any time be open to public inspection or be published by the comptroller.

"(10) A design when registered shall be registered as of the date of the application for registration."

**30. Rules as to applications for registration of designs.]** Rules may be made under the principal Act for regulating the matters dealt with in sub-sections two and three of section forty-seven and in section forty-eight of the principal Act, which relate to the form and manner in which applications for the registration of designs are to be made, and on the coming into operation of any such rules the said enactments shall be repealed.

**31. Copyright in designs.]**—(1) At the end of sub-section (1) of section fifty of the principal Act (which relates to the term of copyright in a registered design) the following paragraph shall be added:—

"If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller shall on payment of the prescribed fee extend the period of copyright for a second period of five years from the expiration of the original period of five years. If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller may, subject to any rules under the principal Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years."

(2) The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

**32. Marking of registered designs.]**—(1) So much of section fifty-one of the principal Act as provides that the copyright in a registered design shall cease if the proprietor fails to comply with the requirements of that section with respect to the marking of articles to which the design has been applied is hereby repealed; but, in the event of any failure to comply with any such requirements, the proprietor of the design shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design, unless he shows that he took all proper steps to ensure the marking of the articles, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of copyright in the design.

(2) Where a representation is made to the Board of Trade by or on behalf of any trade or industry that in the interests of the trade

or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of the said section fifty-one as to marking, the Board may, if they think fit, by rule under the principal Act dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

**33. Registration of designs.]** Where a design has been registered in one or more classes of goods the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated

(a) on the ground of the design not being a new and original design by reason only that it was so previously registered; or

(b) on the ground of the design having been previously published in the United Kingdom by reason only that it has been applied to goods of any class in which it was so previously registered.

**34. Inspection of registered designs.]**—(1) In section fifty-two of the principal Act (which prohibits the inspection of a design during the existence of the copyright in the design) after the words "during the existence of copyright in a design" there shall be inserted the words "or such shorter period, not being less than two years from the registration of a design as may be prescribed," and for the words "when the copyright in a design has ceased" there shall be substituted the words "after the expiration of the copyright in the design or such shorter period as aforesaid."

(2) At the end of the same section the following sub-section shall be added:—

"(3) Different periods may be prescribed under this section for different classes of goods."

**35. Cancellation of registration of designs used wholly or mainly abroad.]** At any time after the registration of a design any person may apply to the comptroller for the cancellation of the registration on the ground that the design is used for manufacture exclusively or mainly outside the United Kingdom, and where such an application is made the provisions of this Act with respect to the revocation of patents worked outside the United Kingdom including those relating to costs shall apply with the necessary modifications, except that there shall be no appeal from the decision of the comptroller. Such ground as aforesaid shall be available by way of a defence to an action for infringement of the copyright in the design.

**36. Penalty and damages in respect of piracy of registered design.]**—(1) In section fifty-eight of the principal Act (which imposes penalties on the piracy of registered designs), at the end of paragraph (a) there shall be inserted the words "or to do anything with a view to enabling the design to be so applied."

(2) In the same section, after the words "publish or expose," there shall be inserted the words "or cause to be published or exposed."

(3) The following shall be substituted for section fifty-nine of the principal Act (which relates to actions for damages for infringement of registered designs):—

"Notwithstanding the remedy given by this Act for the recovery of such penalty as aforesaid, the registered proprietor of any design may, if he elects to do so, bring an action for the recovery of any damages arising from any acts to which a penalty is attached by this Act, and for an injunction against the repetition thereof."

**37. Application of sections 31 and 32 of principal Act to designs.]** Section thirty-one of the principal Act (which relates to the certificates of validity of a patent), and section thirty-two of the same Act, which relates to the remedy in case of groundless threats of legal proceedings shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.



PART III.  
GENERAL.

38. *Rules as to branch offices.*] Rules under the principal Act may provide for the establishment of branch offices for designs at Manchester and elsewhere, and for any document or thing required by the principal Act to be sent to or done at the Patent Office being sent to or done at any branch office which may be established.

39. *Entries in registers.*] In section eighty-seven of the principal Act (which relates to entries in registers of patents and designs) the following paragraph shall be inserted after the words "as the case may be," where they first occur:—

"When any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent or design, the comptroller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs as the case may be."

40. *Rectification of registers by court.*] The following section shall be substituted for section ninety of the principal Act (which relates to the rectification of registers of patents and designs by the court):—

"(1) The court may, on application in the prescribed manner of any persons aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit.

"(2) The court may in any such proceeding under this section decide any question that it may be necessary or expedient to decide in connexion with the rectification of a register.

"(3) The prescribed notice of any application under this section shall be given to the comptroller, who shall have the right to appear and be heard thereon, and shall appear if so directed by the court.

"(4) Any order of the court rectifying a register shall direct that notice of the rectification be served upon the comptroller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly."

41. *Correction of clerical errors.*] The following section shall be substituted for section ninety-one of the principal Act, which relates to the correction of clerical errors:—

"The comptroller may on request in writing accompanied by the prescribed fee—

"(a) correct any clerical error in or in connexion with an application for a patent or in any patent or any specification;

"(b) cancel the registration of a design either wholly or in respect of any particular goods in connexion with which the design is registered.

"(c) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs."

42. *Excluded days.*] Where the last day fixed by the principal Act for doing anything under that Act falls on any day specified in rules under that Act as an excluded day, the rules may provide for the thing being done on the next following day not being an excluded day, and section ninety-eight of the principal Act is hereby repealed.

43. *Penalty for false representation.*] The following sub-section shall be added to section one hundred and five of the principal Act

(which imposes penalties for false representations):—

"(3) Any person who, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word 'registered,' or any word or words implying that there is a subsisting copyright in the design, shall be liable on summary conviction to a fine not exceeding five pounds."

44. *Royal Arms.*] The following section shall be substituted for section one hundred and six of the principal Act:—

"(3) The grant of a patent under this Act shall not be deemed to authorise the patentee to use the Royal Arms or to place the Royal Arms on any patented article.

"(2) If any person, without the authority of His Majesty, uses in connection with any business, trade, calling, or profession the Royal Arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal Arms, he shall be liable on summary conviction to a fine not exceeding twenty pounds: Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing such arms to continue to use such trade mark."

45. *Evidence before comptroller.*—(1) Subject to rules under the principal Act in any proceeding under the principal Act or this Act before the comptroller the evidence shall be given by statutory declaration in the absence of directions to the contrary; but in any case in which the comptroller thinks it right so to do, he may take evidence *viva voce* in lieu of or in addition to evidence by declaration, or allow any declarant to be cross-examined on his declaration. Any such statutory declaration may in the case of appeal be used before the court in lieu of evidence by affidavit, but, if so used, shall have all the incidents and consequences of evidence by affidavit.

(2) In case any part of the evidence is taken *viva voce*, the comptroller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court.

46. *Costs and security for costs.*—(1) The comptroller shall, in proceedings relating to an opposition to the grant of a patent or to an application for the amendment of a specification or the revocation of a patent, have power, by order, to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may be made a rule of the court.

(2) If a party giving notice of opposition to the grant of a patent or to the amendment of a specification, or applying to the comptroller for the revocation of a patent, or giving notice of appeal from any decision of the comptroller, neither resides nor carries on business in the United Kingdom or the Isle of Man, the comptroller or, in case of appeal to the law officer, the law officer, may require such party to give security for costs of the proceedings or appeal, and in default of such security being given may treat the proceedings or appeal as abandoned.

47. *Misuse of title of "Patent Office."*] If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be liable on summary conviction to a fine not exceeding twenty pounds.

48. *Agents for patents.*—(1) Rules under the principal Act may authorise the comptroller to refuse to recognise as agent in respect of any business under that Act any person whose name has been erased from the register of patent agents, or who is proved to the satisfaction of the Board of Trade, after being given an opportunity of being heard, to have been convicted

of such an offence or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register of patent agents, to have his name erased therefrom, and may authorise the comptroller to refuse to recognise as agent in respect of any business under the principal Act any company which, if it had been an individual, the comptroller could refuse to recognise as such agent.

(2) Where a company or firm acts as agent, such rules as aforesaid may authorise the comptroller to refuse to recognise the company or firm as agent if any person whom the comptroller could refuse to recognise as an agent acts as director or manager of the company or is a partner in the firm.

(3) The comptroller shall refuse to recognise as agent in respect of any business under the principal Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man.

49. *Construction.*] Except where otherwise expressly provided this Act shall apply to patents granted, designs registered, and to applications made as well before as after the commencement of this Act.

50. *Application of Act in Scotland.*] The expression "Rules of the Supreme Court" shall in this Act, except in section twenty-eight, as applying to Scotland mean Act of Sederunt; and notwithstanding anything contained in the Patents, Designs, and Trade Marks Acts, 1883 to 1902, or in this Act. The expression "Court" in section sixteen of this Act shall, in reference to petitions which are referred by the Board of Trade to the Court in Scotland, mean any Lord Ordinary of the Court of Session, and in section seventeen of this Act shall in reference to proceedings in Scotland mean such Lord Ordinary.

51. *Short title, commencement and repeal.*—(1) This Act may be cited as the Patents and Designs (Amendment) Act, 1907, and may be cited, and shall be construed as one, with the Patents, Designs, and Trade Marks Acts, 1883 to 1902.

(2) This Act shall, save as otherwise expressly provided, come into operation on the first of January one thousand nine hundred and eight.

(3) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

SCHEDULE.  
ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	In section seventeen, the words "by accident, mistake, or inadvertence," and the words "if satisfied that the failure has arisen from any of the above-mentioned causes." Section nineteen. Section twenty-five. In section twenty-six, sub-sections (5) (6) and (7) as from the date when rules of the Supreme Court dealing with the like matters come into force. In sub-section (8) of section twenty-six, the words "the date of revocation of" and the words "but the patent so granted shall cease on the expiration of the

Session and Chapter.	Short Title.	Extent of Repeal.
51 & 52 Vict. c. 50.	The Patents, Designs and Trade Marks Act, 1888.	term for which the revoked patent was granted." Section twenty- nine, as from the date when rules of the Supreme Court dealing with the like matters come into force. In section thirty- four, the words "must be made within six months of the decease of such person and," sub-sections (2) and (3) of section forty-seven; and section forty- eight from the date when rules under the principal Act dealing with the like matters come into force. In section 50, sub- section (2). Section fifty-one, from "and if he fails" to the end of the section. Section fifty-four. Section fifty-nine. Section ninety. Section ninety-one. Section ninety- eight. Section one hundred and six. Section twenty- four.
2 Edw. 7, c. 4.	The Patents Act, 1902.	In section three, the sub-sections num- bered (5), (6), (8), (9) and (10).

## CHAPTER 29.

[Patents and Designs Act, 1907.]

An Act to consolidate the enactments relating to Patents for Inventions and the Registration of Designs and certain enactments relating to Trade Marks.

[28th August 1907.]

Be it enacted, &amp;c.:—

## PART I.

## PATENTS.

## Application for and Grant of Patent.

1. *Application.*—(1) An application for a patent may be made by any person who claims to be the true and first inventor of an invention, whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at, or sent by post to, the patent office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor, and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification.

(4) The declaration required by this section may be either a statutory declaration or not, as may be prescribed.

2. *Specifications.*—(1) A provisional specification must describe the nature of the invention.

(2) A complete specification must particularly describe and ascertain the nature of the inven-

tion and the manner in which the same is to be performed.

(3) In the case of any provisional or complete specification where the comptroller deems it desirable he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the same, and such drawings shall be deemed to form part of of the said specification.

(4) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

(5) Where the invention in respect of which an application is made is a chemical invention, such typical samples and specimens as may be prescribed shall, if in any particular case the comptroller considers it desirable so to require, be furnished before the acceptance of the complete specification.

3. *Proceedings upon application.*—(1) The Comptroller General of Patents, Designs, and Trade Marks (herein-after referred to as the comptroller) shall refer every application to an examiner.

(2) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject-matter of the invention, the comptroller may refuse to accept the application or require that the application, specification, or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the comptroller so directs, bear date as from the time when the requirement is complied with.

(3) Where the comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer, who shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

(4) The comptroller shall, when an application has been accepted, give notice thereof to the applicant.

4. *Provisional protection.* Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the invention; and such protection is in this Act referred to as provisional protection.

5. *Time for leaving complete specification.*—(1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within six months from the date of the application.

Provided that where an application is made for an extension of the time for leaving a complete specification, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding one month.

(2) Unless a complete specification is so left the application shall be deemed to be abandoned.

6. *Comparison of provisional and complete specification.*—(1) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner.

(2) If the examiner reports that the complete specification has not been prepared in the prescribed manner, the comptroller may refuse to accept the complete specification until it has been amended to his satisfaction.

(3) If the examiner reports that the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification the comptroller may—

(a) refuse to accept the complete specifica-

tion until it has been amended to his satisfaction; or

(b) (with the consent of the applicant) cancel the provisional specification and treat the application as having been made on the date at which the complete specification was left, and the application shall have effect as if made on that date:

Provided that where the complete specification includes an invention not included in the provisional specification, the comptroller may allow the original application to proceed so far as the invention included both in the provisional and in the complete specification in concerned, and treat the claim for the additional invention included in the complete specification as an application for that invention made on the date at which the complete specification was left.

(4) A refusal of the comptroller to accept a complete specification shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the comptroller and may make an order determining whether and subject to what conditions (if any) the complete specification shall be accepted.

(5) Unless a complete specification is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void.

Provided that where an application is made for an extension of time for the acceptance of a complete specification, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

7. *Investigation of previous specifications in United Kingdom on applications for patents.*

—(1) Where an application for a patent has been made and a complete specification has been left, the examiner shall, in addition to the other inquiries which he is directed to make by this Act, make a further investigation for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification (other than a provisional specification) published before the date of the application, and left pursuant to any application for a patent made in the United Kingdom within fifty years next before the date of the application.

(2) If on investigation it appears that the invention has been wholly or in part claimed or described in any such specification, the applicant shall be informed thereof, and the applicant may, within such time as may be prescribed, amend his specification, and the amended specification shall be investigated in like manner as the original specification.

(3) If the comptroller is satisfied that no objection exists to the specification on the ground that the invention claimed thereby has been wholly or in part claimed or described in a previous specification as before mentioned, he shall, in the absence of any other lawful ground of objection, accept the specification.

(4) If the comptroller is not so satisfied, he shall, after hearing the applicant, and unless the objection is removed by amending the specification to the satisfaction of the comptroller, determine whether a reference to any, and, if so, what prior specifications ought to be made in the specification by way of notice to the public.

Provided that the comptroller, if satisfied that the invention claimed has been wholly and specifically claimed in any specification to which the investigation has extended, may, in lieu of requiring references to be made in the applicant's specification as aforesaid, refuse to grant a patent.

(5) An appeal shall lie from the decision of the comptroller under this section to the law officer.

(6) The investigations and reports required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of, or in connexion with, any such investigation or report, or any proceeding consequent thereon.



8. *Investigation of specifications published subsequently to application.*—(1) An investigation under the last preceding section shall extend to specifications published after the date of the application in respect of which the investigation is made, and being specifications which have been deposited pursuant to prior applications; and that section shall, subject to rules under this Act, have effect accordingly.

(2) Where, on such an extended investigation, it appears that the invention claimed in the specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall, whether or not his specification has been accepted or a patent granted to him, be afforded such facilities as may be prescribed for amending his specification, and in the event of his failing to do so the comptroller shall, in accordance with such procedure as may be prescribed, determine what reference, if any, to other specifications ought to be made in his specification by way of notice to the public.

(3) For the purposes of this section an application shall be deemed to be prior to another application if the patent applied for when granted would be of prior date to the patent granted pursuant to that other application.

(4) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

9. *Advertisement on acceptance of complete specification.*—On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specifications with the drawings (if any) shall be open to public inspection.

10. *Effect of acceptance of complete specification.*—After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification. Provided that an applicant shall not be entitled to institute any proceeding for infringement until a patent for the invention has been granted to him.

11. *Opposition to grant of patent.*—(1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds:—

- (a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative; or
- (b) that the invention has been claimed in any complete specification for a British patent which is or will be of prior date to the patent the grant of which is opposed, other than a specification deposited pursuant to an application made more than fifty years before the date of the application for such last-mentioned patent; or
- (c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the complete specification; or
- (d) that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, but on no other ground.

(2) Where such notice is given the comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the comptroller shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the opponent, if the opponent is, in his opinion, a person entitled to be heard in opposition to the

grant of the patent, and shall decide the case; and the law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer with the consent of the Treasury may determine.

12. *Grant and sealing of patent.*—(1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted to the applicant, or in the case of a joint application to the applicants jointly, and the comptroller shall cause the patent to be sealed with the seal of the patent office.

(2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, provided that—

(a) Where the comptroller has allowed an extension of the time within which a complete specification may be left or accepted, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent;

(b) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct;

(c) Where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death;

(d) Where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed, and this provision shall, in such cases as may be prescribed and subject to the prescribed conditions, apply where the period allowed for the sealing of the patent has expired before the commencement of this Act.

13. *Date of patent.*—Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application: Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification.

14. *Effect, extent, and form of patent.*—(1) A patent sealed with the seal of the Patent Office shall have the same effect as if it were sealed with the Great Seal of the United Kingdom, and shall have effect throughout the United Kingdom and the Isle of Man.

Provided that a patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

15. *Fraudulent applications for patents.*—

(1) A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

(2) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked.

Provided that no action shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

16. *Single patent for cognate inventions.*—(1)

Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the comptroller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may accept one complete specification in respect of the whole of such applications and grant a single patent thereon.

(2) Such patent shall bear the date of the earliest of such applications, but in considering the validity of the same and for the purpose of the provisions of this Act with respect to oppositions to the grant of patents, the court or the comptroller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed therein.

#### *Term of Patent.*

17. *Term of patent.*—(2) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times; provided that the comptroller, upon the application of the patentee, shall, on receipt of such additional fee, not exceeding ten pounds, as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the court before which the proceeding is proposed to be taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

18. *Extension of term of patent.*—(1) A patentee may, after advertising in manner provided by rules of the Supreme Court his intention to do so, present a petition to the court praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2) Any person may give notice to the court of objection to the extension.

(3) On the hearing of any petition under this section the patentee and any person who has given such notice of objection shall be made parties to the proceeding, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

(4) The court, in considering its decision, shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5) If it appears to the court that the patentee has been inadequately remunerated by his patent, the court may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and containing any restrictions, conditions, and provisions the court may think fit.

19. *Patents of addition.*—(1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may, if he thinks fit, in his application for the further patent, request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired.

(2) Where an application containing such a request is made, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(3) A patent of addition shall remain in force so long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal.

(4) The grant of a patent of addition shall be conclusive evidence that the invention is a proper

subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

#### Restoration of lapsed Patents.

**20. Restoration of lapsed patents.]—**(1) Where any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the comptroller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional and that no undue delay has occurred in the making of the application, the comptroller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

(4) Where such notice is given the comptroller shall notify the applicant thereof.

(5) After the expiration of the prescribed period the comptroller shall hear the case and, subject to an appeal to the court, issue an order either restoring the patent or dismissing the application: Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had been announced as void in the illustrated official journal.

#### Amendment of Specification.

**21. Amendment of specification by comptroller.]—**(1) An applicant or a patentee may at any time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of, and the reasons for, the proposed amendment.

(2) The request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3) Where such a notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(4) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) The decision of the comptroller in either case shall be subject to an appeal to the law officer, who shall, if required, hear the person making the request to amend and, where notice of opposition has been given, the person giving that notice, if he is, in the opinion of the law officer, entitled to be heard in opposition to the request, and, where there is no opposition, the comptroller, and may make an order determining whether and subject to what conditions (if any) the amendment ought to be allowed.

(6) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(6) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all courts and for all purposes be deemed to form part of the specification.

(8) This section shall not apply when and so long as any action for infringement or proceeding before the court for the revocation of a patent is pending.

**22. Amendment of specification by the court.]** In any action for infringement of a patent or proceedings before a court for the revocation of a patent the court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such

terms as to costs advertisement or otherwise, as the court may think fit:

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the court notice of the application shall be given to the comptroller, and the comptroller shall have the right to appear and be heard, and shall appear if so directed by the court.

**23. Restriction on recovery of damages.]** Where an amendment of a specification by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.

#### Compulsory Licences and Revocation.

**24. Compulsory licences and revocation.]—**(1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for a grant of a compulsory licence, or, in the alternative, for the revocation of the patent.

(2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the court, and, if the Board are not so satisfied, they may dismiss the petition.

(3) Where any such petition is referred by the Board of Trade to the court, and it is proved to the satisfaction of the court that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by the court to grant licences on such terms as the court may think just, or, if the court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licences, the patent may be revoked by order of the court.

Provided that an order of revocation shall not be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

(b) if any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after the passing of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process.

(6) An order of the court directing the grant of any licence under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and made between the parties to the proceeding.

**25. Revocation of patent.]—**(1) Revocation of a patent may be obtained on petition to the court.

(2) Every ground on which—

(a) a patent might, immediately before the first day of January, one thousand eight hundred and eighty-four, have been repealed by *scire facias*; or

(b) a patent may be revoked under this Act either by the comptroller or as an alternative to the grant of a compulsory licence; shall be available by way of defence to an action of infringement and shall also be a ground of revocation under this section.

(3) A petition for revocation of a patent may be presented—

(a) by the Attorney-General or any person authorised by him; or

(b) by any person alleging—

(i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims; or

(ii) that he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee; or

(iii) that he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

**26. Power of comptroller to revoke patents on certain grounds.]—**(1) Any person who would have been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed.

Provided that when an action for infringement or proceedings for the revocation of the patent are pending in any court, an application under this section shall not be made except with the leave of the court.

(2) The comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specification relating thereto to be amended by disclaimer, correction, or explanation, or dismissing the application; but the comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent had the proceedings been proceedings in an opposition to the grant of a patent.

(3) A patentee may at any time by giving notice in the prescribed manner to the comptroller offer to surrender his patent, and the comptroller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court.

**27. Revocation of patents worked outside the United Kingdom.]—**(1) At any time not less than four years after the date of a patent and not less than one year after the passing of this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom.

(2) The comptroller shall consider the application, and, if after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the



comptroller may make an order revoking the patent either—

- (a) forthwith; or
- (b) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom, to an adequate extent:

Provided that no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court, and on any such appeal the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.

#### Register of Patents.

**28. Register of patents.]—**(1) There shall be kept at the Patent Office a book called the register of patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of patents existing at the commencement of this Act shall be incorporated with and form part of the register of patents under this Act.

(3) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(4) Copies of deeds, licences, and any other documents affecting the proprietorship in any letters patent or in any licence thereunder must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

#### Crown.

**29. Patent to bind Crown.]** A patent shall have to all intents the like effect as against His Majesty the King as it has against a subject:

Provided that any Government department may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Treasury, between the department and the patentee, or, in default of agreement, as may be settled by the Treasury after hearing all parties interested.

**30. Assignment to Secretary for War or the Admiralty of certain inventions.]—**(1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for War or the Admiralty on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Secretary of State or the Admiralty may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State or the Admiralty on behalf of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State or the Admiralty.

(3) Where any such assignment has been made, the Secretary of State or the Admiralty may at any time before the publication of the complete specification certify to the comptroller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Secretary of State or the Admiralty so certify the application and specifications, with

the drawings (if any), and any amendment of the complete specification, and any copies of such documents and drawings shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State or the Admiralty.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State or the Admiralty or of the law officer.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorised by the Secretary of State or the Admiralty to receive it, and shall if returned to the comptroller be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Secretary of State or the Admiralty.

(8) Where the Secretary of State or the Admiralty certify as aforesaid, after an application for a patent has been left at the Patent Office, but before the publication of the complete specification, the application and specifications, with the drawings (if any) shall be forthwith placed in a packet sealed by authority of the comptroller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State or the Admiralty.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Secretary of State or the Admiralty as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Secretary of State or the Admiralty may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State or the Admiralty, or to any person or persons authorised by the Secretary of State or the Admiralty to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

(13) Rules may be made under this Act, after consultation with the Secretary of State and the Admiralty, for the purpose of ensuring secrecy with respect to patents to which this section applies, and those rules may modify any of the provisions of this Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid.

#### Legal Proceedings.

**31. Hearing with assessor.]—**(1) In an action or proceeding for infringement or revocation of a patent, the court may, if it think fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance; the action shall be tried without a jury unless the court otherwise directs.

(2) The Court of Appeal may, if it think fit, in any proceeding before them call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court or the Court of Appeal, as the case may be, and be paid as part of the expenses of the execution of this Act.

**32. Power to counterclaim for revocation in an action for infringement.]** A defendant in an action for infringement of a patent, if entitled to present a petition to the court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the rules of the Supreme Court by way of counter-

claim in the action for the revocation of the patent.

**33. Exemption of innocent infringer from liability for damages.]** A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

**34. Order for inspection, &c., in action.]** In an action for infringement of a patent, the court may on the application of either party make such order for an injunction inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the court may see fit.

**35. Certificate of validity questioned and costs thereon.]** In an action for infringement of a patent, the court may certify that the validity of the patent came in question; and, if the court so certifies, then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favour shall, unless the court trying the action otherwise directs, have his full costs, charges, and expenses as between solicitor and client.

**36. Remedy in case of groundless threats of legal proceedings.]** Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats:

Provided that this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

#### Miscellaneous.

**37. Grant of patents to two or more persons.]** Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a licence without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his personal representatives as part of his personal estate.

**38. Avoidance of certain conditions attached to the sale, &c., of patented articles.]—**(1) It shall not be lawful in any contract made after the passing of this Act in relation to the sale or lease of, or licence to use or work, any article or process protected by a patent to insert a condition the effect of which will be—

- (a) to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor or his nominee; or
- (b) to require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominee, any article or class of articles not protected by the patent;

and any such condition shall be null and void.

as being in restraint of trade and contrary to public policy.

Provided that this sub-section shall not apply if—

- (i) the seller, lessor, or licensor proves that at the time the contract was entered into the purchaser, lessee, or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms, without such conditions as aforesaid; and
- (ii) the contract entitles the purchaser, lessee, or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment in compensation for such relief in the case of a purchase of such sum, or in the case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by an arbitrator appointed by the Board of Trade.

(2) Any contract relating to the lease of or licence to use or work any patented article or patented process, whether made before or after the passing of this Act, may at any time after the patent or all the patents by which the article or process was protected at the time of making the contract has or have ceased to be in force, and notwithstanding anything in the same or in any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party; but where any such notice is given determining any contract made before the passing of this Act, the party giving the notice shall be liable to pay such compensation as failing agreement may be awarded by an arbitrator appointed by the Board of Trade.

(3) Any contract made before the passing of this Act relating to the lease of or licence to use or work any patented article or process and containing any condition which, had the contract been made after the passing of this Act, would by virtue of this section have been null and void may, at any time before the contract is determinable under the last preceding sub-section, and notwithstanding anything in the same or any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party, but where any such notice is given the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(4) The insertion by the patentee in a contract made after the passing of this Act of any condition which by virtue of this section is null and void shall be available as a defence to an action for infringement of the patent to which the contract relates brought while that contract is in force.

(5) Nothing in this section shall—

- (a) affect any condition in a contract whereby a person is prohibited from selling any goods other than those of a particular person; or
- (b) be construed as validating any contract which would, apart from this section, be invalid; or
- (c) affect any right of determining a contract or condition in a contract exercisable independently of this section; or
- (d) affect any condition in a contract for the lease of or licence to use a patented article, whereby the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the patented article as may be required to put or keep it in repair.

**39. Costs and security for costs.]**—(1) The comptroller shall, in proceedings relating to an opposition to the grant of a patent or to an application for the amendment of a specification or the revocation of a patent, have power by order to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may be made a rule of the court.

(2) If a party giving notice of opposition to the grant of a patent or to the amendment of

a specification, or applying to the comptroller for the revocation of a patent, or giving notice of appeal from any decision of the comptroller, neither resides nor carries on business in the United Kingdom or the Isle of Man, the comptroller, or, in case of appeal to the law officer, the law officer, may require such party to give security for costs of the proceedings or appeal, and in default of such security being given may treat the proceedings or appeal as abandoned.

**40. Procedure on appeal to law officer.]** The law officer may examine witnesses on oath and administer oaths for that purpose, and may make rules regulating references and appeals to the law officer and the practice and procedure before him under this Part of this Act; and in any proceeding before the law officer under this Part of this Act, the law officer may order costs to be paid by either party, and any such order may be made a rule of the court.

**41. Provisions as to anticipation.]**—(1) An invention covered by any patent applied for on or after the first day of January one thousand nine hundred and five shall not be deemed to have been anticipated by reason only of its publication in a specification left pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for the patent, or of its publication in a provisional specification of any date not followed by a complete specification.

(2) A patent shall not be held to be invalid by reason only of the invention in respect of which the patent was granted, or any part thereof, having been published prior to the date of the patent, if the patentee proves to the satisfaction of the court that the publication was made without his knowledge and consent, and that the matter published was derived or obtained from him, and, if he learnt of the publication before the date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the publication.

**42. Disconformity.]** A patent shall not be held to be invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant was the first and true inventor thereof.

**43. Patent on application of representative of deceased inventor.]**—(1) If the person claiming to be inventor of an invention dies without making an application for a patent for the invention, application may be made by, and a patent for the invention granted to, his legal representative.

(2) Every such application must contain a declaration by the legal representative that he believes him to be the true and first inventor of the invention.

**44. Loss or destruction of patent.]** If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time seal a duplicate thereof.

**45. Provisions as to exhibitions.]**—(1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privacy or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application, provided that—

- (a) the exhibitor, before exhibiting the invention, gives the comptroller the prescribed notice of his intention to do so; and

(b) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) His Majesty may by Order in Council apply this section to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified as such by the Board of Trade, and any such Order may provide that the exhibitor shall be relieved from the condition of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the Order.

**46. Publication of illustrated journal, indexes, &c.]**—(1) The comptroller shall issue periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that he may deem generally useful or important.

(2) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents in force, with any accompanying drawings.

(3) The comptroller shall continue, in such form as he deems expedient, the indexes and abridgments of specifications hitherto published, and shall prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions, as he thinks fit.

**47. Patent Museum.]**—(1) The control and management of the Patent Museum and its contents shall remain vested in the Board of Education, subject to such directions as His Majesty in Council may think fit to give.

(2) The Board of Education may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model, the amount to be settled, in case of dispute, by the Board of Trade.

**48. Foreign vessels in British waters.]**—(1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of His Majesty's Courts in the United Kingdom, or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2) This section shall not extend to vessels of any foreign state of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that state, or in the waters within the jurisdiction of its courts.

## PART II.

### DESIGNS.

#### Registration of Designs.

**49. Application for registration of designs.]**—(1) The comptroller may, on the application made in the prescribed form and manner of any person claiming to be the proprietor of any new or original design not previously published in the United Kingdom, register the design under this Part of this Act.

(2) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the comptroller may decide the question.

(3) The comptroller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal to the Board of Trade, and the Board shall, after hearing the applicant and the comptroller, if so required, make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(4) An application on which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(5) A design when registered shall be registered as of the date of the application for registration.

**50. Registration of designs in new classes.]** Where a design has been registered in one or more classes of goods the application of the



prietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

- (a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or
- (b) on the ground of the design having been previously published in the United Kingdom, by reason only that it has been applied to goods of any class in which it was so previously registered.

**51. Certificate of registration.]—**(1) The comptroller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The comptroller may, in case of loss of the original certificate, or in other case in which he deems it expedient, furnish one or more copies of the certificate.

**52. Register of designs.]—**(1) There shall be kept at the Patent Office a book called the Register of Designs wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments, and of transmissions of registered designs, and such other matters as may be prescribed.

(2) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

(3) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorised to be entered therein.

#### Copyright in registered Designs.

**53. Copyright on registration.]—**(1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller shall on payment of the prescribed fee extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the comptroller in the prescribed manner, the comptroller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

**54. Requirements before delivery on sale.]—**(1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

- (a) (if exact representations or specimens were not furnished on the application for registration), furnish to the comptroller the prescribed number of exact representations or specimens of the design; and if he fails to do so, the comptroller may erase his name from the register, and thereupon the copyright in the design shall cease; and

(b) cause each such article to be marked with the prescribed mark or with the prescribed words or figures, denoting that the design is registered; and if he fails to do so the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Board of Trade by or on behalf of any trade or industry that in the interests of any trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Board may, if they think fit, by rule under this Act dispense with or

modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as they think fit.

**55. Effect of disclosure on copyright.]** The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

**56. Inspection of registered designs.]—**(1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorised in writing by him, or a person authorised by the comptroller or by the court, and furnishing such information as may enable the comptroller to identify the design, and shall not be open to the inspection of any person except in the presence of the comptroller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof;

Provided that where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

**57. Information as to existence of copyright.]** On the request of any person furnishing such information as may enable the comptroller to identify the design, and on payment of the prescribed fee, the comptroller shall inform each person whether the registration still exists in respect of the design, and if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

**58. Cancellation of registration of designs used wholly or mainly abroad.]—**(1) At any time after the registration of a design any person may apply to the comptroller for the cancellation of the registration on the ground that the design is used for manufacture exclusively or mainly outside the United Kingdom, and where such an application is made the provisions of this Act with respect to the revocation of patents worked outside the United Kingdom (including those relating to costs) shall apply with the necessary modifications, except that there shall be no appeal from the decision of the comptroller.

(2) Such ground as aforesaid shall be available by way of a defence to an action for infringement of the copyright in the design.

#### Industrial and International Exhibitions.

**59. Provisions as to exhibitions.]—**(1) The exhibition at an industrial or international exhibition certified as such by the Board of Trade, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof: Provided that—

(a) The exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the comptroller the prescribed notice of his intention to do so; and

(b) The application for registration is made before or within six months from the date of the opening of the exhibition.

(2) His Majesty may, by Order in Council, apply this section to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified as such by the Board of Trade, and any such Order may provide that the exhibitor shall be relieved from the condition of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the Order.

#### Legal Proceedings.

**60. Piracy of registered design.]—**(1) During the existence of copyright in any design it shall not be lawful for any person—

(a) For the purposes of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the licence or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or

(b) Knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section he shall be liable for every contravention to pay to the registered proprietor of the design a sum not exceeding fifty pounds, recoverable as a simple contract debt, or if the proprietor elects to bring an action for the recovery of damages for such contravention, and for an injunction against the repetition thereof, he shall be liable to pay such damages as may be awarded and to be restrained by injunction accordingly:

Provided that the total sum recoverable as a simple contract debt in respect of any one design shall not exceed one hundred pounds.

**61. Application of certain provisions of the Act as to patents to designs.]** The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

#### PART III.

##### GENERAL.

#### Patent Office and Proceedings thereat.

**62. Patent Office.]—**(1) The Treasury may continue to provide for the purposes of this Act and the Trade Marks Act, 1905 (5 Edw. 7, c. 15), an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the comptroller, who shall act under the superintendence and direction of the Board of Trade.

(3) Any act or thing directed to be done by or to the comptroller may be done by or to any officer authorised by the Board of Trade.

(4) Rules under this Act may provide for the establishment of branch offices for designs at Manchester or elsewhere, and for any document or thing required by this Act to be sent to or done at the Patent Office being sent to or done at any branch office which may be established.

**63. Officers and clerks.]—**(1) There shall continue to be a comptroller-general of patents, designs, and trade marks, and the Board of Trade may, subject to the approval of the Treasury, appoint the comptroller, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may remove any of those officers and clerks.

(2) The salaries of those officers and clerks

shall be appointed by the Board of Trade, with the concurrence of the Treasury, and those salaries and the other expenses of the execution of this Act and the Trade Marks Act, 1905, shall continue to be paid out of money provided by Parliament.

**64. Seal of Patent Office.]** Impressions of the seal of the Patent Office shall be judicially noticed and admitted in evidence.

#### Fees.

**65. Fees.]** There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be, with the sanction of the Treasury, prescribed by the Board of Trade, so however that the fees prescribed in respect of the instrument and matters mentioned in the First Schedule to this Act shall not exceed those specified in that schedule.

**Provisions as to Registers and other Documents in Patent Office.**

**66. Trust not to be entered in registers.]** There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust expressed implied or constructive.

**67. Inspection of and extracts from registers.]** Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

**68. Privilege of reports of examiners.]** Reports of examiners made under this Act shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding, unless the court or officer having power to order discovery in such legal proceeding certifies that such production or inspection is desirable in the interests of justice, and ought to be allowed.

**69. Prohibition of publication of specification, drawings, &c., where application abandoned, &c.]**—(1) Where an application for a patent has been abandoned, or become void, the specifications and drawings (if any) accompanying or left in connexion with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the comptroller.

(2) Where an application for a design has been abandoned or refused the application and any drawings, photographs, tracings, representations, or specimens left in connexion with the application shall not at any time be open to public inspection or be published by the comptroller.

**70. Power for comptroller to correct clerical errors.]** The comptroller may, on request in writing accompanied by the prescribed fee,—

- (a) correct any clerical error in or in connexion with an application for a patent or in any patent or any specification;
- (b) cancel the registration of a design either wholly or in respect of any particular goods in connexion with which the design is registered;
- (c) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is entered upon the register of patents or the register of designs.

**71. Entry of assignments and transmissions in registers.]**—(1) Where a person becomes entitled by assignment, transmission, or other operation of law to a patent, or to the copyright in a registered design, the comptroller shall, on request and on proof of title to his satisfaction, register him as the proprietor of a patent or design.

(2) Where any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent or design, the comptroller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the

prescribed manner in the register of patents or designs, as the case may be.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, licence, or dealing: Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other personal property.

**72. Rectification of registers by court.]**—(1) The court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit.

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connexion with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the comptroller, who shall have the right to appear and be heard thereon, and shall appear if so directed by the court.

(4) Any order of the court rectifying a register shall direct that notice of the rectification be served on the comptroller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

#### Powers and Duties of Comptroller.

**73. Exercise of discretionary power by comptroller.]** Where any discretionary power is by or under this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

**74. Power of comptroller to take directions of law officers.]** The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act apply to a law officer for directions in the matter.

**75. Refusal to grant patent, &c., in certain cases.]** The comptroller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

**76. Annual reports of comptroller.]** The comptroller shall, before the first day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which the report relates all general rules made in that year under or for the purposes of this Act, and an account of all fees, salaries, and allowances, and other money received and paid under this Act.

#### Evidence, &c.

**77. Evidence before comptroller.]**—(1) Subject to rules under this Act in any proceeding under this Act before the comptroller the evidence shall be given by statutory declaration in the absence of directions to the contrary; but in any case in which the comptroller thinks it right so to do, he may take evidence *viva voce* in lieu of or in addition to evidence by declaration or allow any declarant to be cross-examined on his declaration. Any such statutory declaration may in the case of appeal be used before the court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

(2) In case any part of the evidence is taken *viva voce*, the comptroller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court.

**78. Certificate of comptroller to be evidence.]** A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorised by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

**79. Evidence of documents in Patent Office.]** Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in His Majesty's dominions, and in all proceedings, without further proof or production of the originals.

**80. Transmission of certified printed copies of specifications, &c.]**—(1) Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrolments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after they have been accepted or allowed at the Patent Office.

(2) Certified copies of or extracts from any such documents and of any documents so transmitted in pursuance of any enactment repealed by this Act shall be given to any person on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

**81. Applications and notices by post.]** Any application, notice, or other document authorised or required to be left, made, or given at the Patent Office or to the comptroller, or to any other person under this Act, may be sent by post.

**82. Excluded days.]** Where the last day fixed by this Act for doing anything under this Act falls on any day specified in rules under this Act as an excluded day, the rules may provide for the thing being done on the next following day not being an excluded day.

**83. Declaration by infant, lunatic, &c.]**—(1) If any person is, by reason of infancy, lunacy, or other disability, incapable of making any declaration or doing anything required or permitted by or under this Act, the guardian or committee (if any) of the person subject to the disability, or, if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

(2) An appointment may be made by the court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the declaration or the doing of the thing.

#### Register of Patent Agents.

**84. Register of patent agents.]**—(1) A person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act or an Act repealed by this Act.

(2) Every person who proves to the satisfaction of the Board of Trade that prior to the twenty-fourth day of December, one thousand eight hundred and eighty-eight, he had been *bona fide* practising as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

(3) If any person knowingly describes himself as a patent agent in contravention of this



section he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds.

(4) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

**85. Agents for patents.]—**(1) Rules under this Act may authorise the comptroller to refuse to recognise as agent in respect of any business under this Act any person whose name has been erased from the register of patent agents, or who is proved to the satisfaction of the Board of Trade, after being given an opportunity of being heard, to have been convicted of such an offence or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register on patent agents, to have his name erased therefrom, and may authorise the comptroller to refuse to recognise as agent in respect of any business under this Act any company which, if it had been an individual, the comptroller could refuse to recognise as such agent.

(2) Where a company or firm acts as agents, such rules as aforesaid may authorise the comptroller to refuse to recognise the company or firm as agent if any person whom the comptroller could refuse to recognise as an agent acts as director or manager of the company or is a partner in the firm.

(3) The comptroller shall refuse to recognise as agent in respect of any business under this Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man.

*Powers, &c., of Board of Trade.*

**86. Power for Board of Trade to make general rules.]—**(1) The Board of Trade may make such general rules and do such things as they think expedient, subject to the provisions of this Act—

(a) For regulating the practice of registration under this Act;

(b) For classifying goods for the purposes of designs;

(c) For making or requiring duplicates of specifications, drawings, and other documents;

(d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, and other documents;

(e) For securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;

(f) For regulating (with the approval of the Treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad;

(g) For regulating the keeping of the register of patent agents under this Act;

(h) Generally for regulating the business of the Patent Office, and all things by this Act placed under the direction or control of the comptroller, or of the Board of Trade.

(2) General rules shall whilst in force be of the same effect as if they were contained in this Act.

(3) Any rules made in pursuance of this section shall be advertised twice in the official journal to be issued by the comptroller, and shall be laid before both Houses of Parliament as soon as practicable after they are made and if either House of Parliament, within the next forty days after any rules have been so laid before that House, resolves that the rules or any of them ought to be annulled, the rules or those to which the resolution applies shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under the rules or to the making of any new rules.

**87. Proceedings of the Board of Trade.]—**(1)

All things required or authorised under this Act to be done by, to, or before the Board of Trade, may be done by, to, or before the President or a secretary or an assistant secretary of the Board.

(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorised in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(3) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

**88. Provision as to Order in Council.]** An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if it had been contained in this Act; but may be revoked or varied by a subsequent Order.

*Offences.*

**89. Offences.]—**(1) If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanour.

(2) If any person falsely represents that any article sold by him is a patented article, or falsely describes any design applied to any article sold by him as registered, he shall be liable for every offence, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding five pounds.

(3) If any person sells an article having stamped, engraved, or impressed thereon or otherwise applied thereto the word "patent," "patented," "registered," or any other word expressing or implying that the article is patented or that the design applied thereto is registered, he shall be deemed for the purposes of this section to represent that the article is a patented article or that the design applied thereto is a registered design.

(4) Any person who, after the copyright in a design has expired, puts or causes to be put on any article to which the design has been applied the word "registered," or any word or words implying that there is a subsisting copyright in the design, shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(5) If any person used on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds.

**90. Unauthorised assumption of Royal Arms.]**

(1) The grant of a patent under this Act shall not be deemed to authorise the patentee to use the Royal Arms or to place the Royal Arms on any patented article.

(2) If any person, without the authority of His Majesty, uses in connection with any business, trade, calling, or profession the Royal Arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Royal Arms, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding twenty pounds.

Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing such arms to continue to use such trade mark.

*International and Colonial Arrangements.*

**91. International and Colonial arrangements.]**

(1) If His Majesty is pleased to make any arrangement with the government of any foreign state for mutual protection of inventions, or designs, or trade marks, then any person who has

applied for protection for any invention, design, or trade mark in that state shall be entitled to a patent for his invention or to registration of his design or trade mark under this Act or the Trade Marks Act, 1905, in priority to other applicants; and the patent or registration shall have the same date as the date of the application in the foreign state.

Provided that—

(a) The application is made, in the case of a patent within twelve months, and in the case of a design or trade mark within four months, from the application for protection in the foreign state; and

(b) Nothing in this section shall entitle the patentee or proprietor of the design or trade mark to recover damages for infringements happening prior to the actual date on which his complete specification is accepted, or his design or trade mark is registered, in this country.

(2) The patent granted for the invention or the registration of a design or trade mark shall not be invalidated—

(a) in the case of a patent, by reason only of the publication of a description of, or use of, the invention; or

(b) in the case of a design, by reason only of the exhibition or use of, or the publication of a description or representation of, the design; or

(c) in the case of a trade mark, by reason only of the use of the trade mark, in the United Kingdom or the Isle of Man during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent, or the registration of a design, or the registration of a trade mark under this section, must be made in the same manner as an ordinary application under this Act or the Trade Marks Act, 1905:

Provided that—

(a) In the case of patents the application shall be accompanied by a complete specification, which, if it is not accepted within the twelve months from the application for protection in the foreign state, shall with the drawings (if any) be open to public inspection at the expiration of that period; and

(b) In the case of trade marks, any trade mark the registration of which has been duly applied for in the country of origin may be registered under the Trade Marks Act, 1905.

(4) The provisions of this section shall apply only in the case of those foreign states with respect to which His Majesty by Order in Council declares them to be applicable, and so long only in the case of each state as the Order in Council continues in force with respect to that state.

(5) Where it is made to appear to His Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in this country, it shall be lawful for His Majesty, by Order in Council, to apply the provisions of this section to that possession, with such variations or additions, if any, as may be stated in the Order.

*Definitions.*

**92. Provisions as to "the court."]—**(1) In this Act, unless the context otherwise requires, "the court" means, subject to the provisions as to Scotland, Ireland, and the Isle of Man, the High Court in England.

(2) Where by virtue of this Act a decision of the comptroller is subject to an appeal to the court, or a petition may be referred or presented to the court, the appeal shall, subject to and in accordance with rules of the Supreme Court, be made and the petition referred or presented to such judge of the High Court as the Lord Chancellor may select for the purpose, and the decision of that judge shall be final, except in the case of an appeal from a decision of the comptroller revoking a patent on any ground on which the grant of such patent might have been opposed.

**93. Definitions.]** In this Act, unless the context otherwise requires,—  
"Law officer" means the Attorney-General or Solicitor-General for England;

"Prescribed" means prescribed by general rules under this Act:

"British possession" does not include the Isle of Man or the Channel Islands:

"Patent" means letters patent for an invention:

"Patentee" means the person for the time being entitled to the benefit of a patent:

"Invention" means any manner of new manufacture the subject of letters patent and grant of privilege within section twenty-six of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chapter three, intitled "An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof"), and includes an alleged invention:

"Inventor" and "applicant" shall, subject to the provisions of this Act, include the legal representative of a deceased inventor or applicant:

"Design" means any design (not being a design for a sculpture or other thing within the protection of the Sculpture Copyright Act, 1814 [54 Geo. 3, c. 56] applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical, or chemical, separate or combined:

"Article" means (as respects designs) any article of manufacture and any substance artificial or natural, or partly artificial and partly natural:

"Copyright" means the exclusive right to apply a design to any article in any class in which the design is registered:

"Proprietor of a new and original design,"—

(a) Where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(b) Where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(c) In any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

*Application to Scotland, Ireland, and the Isle of Man.*

94. *Application to Scotland.* In the application of this Act to Scotland—

(1) In any action for infringement of a patent in Scotland the provisions of this Act with respect to calling in the aid of an assessor shall apply, and the action shall be tried without a jury, unless the court otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts; and for the purposes of the provisions so applied "court of appeal" shall mean any court to which such action is appealed:

(2) Any offence under this Act declared to be punishable on conviction under the Summary Jurisdiction Acts may be prosecuted in the sheriff court:

(3) Proceedings for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause

shown only, and service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act:

(4) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to patents or to designs; and with reference to any such proceedings, the term "the Court" shall mean any Lord Ordinary of the Court of Session, and the term "Court of Appeal" shall mean either Division of that Court:

(5) Notwithstanding anything in this Act, the expression "the court" shall, as respects petitions for compulsory licences on revocation which are referred by the Board of Trade to the Court in Scotland, mean any Lord Ordinary of the Court of Session, and shall in reference to proceedings in Scotland for the extension of the time of a patent mean such Lord Ordinary:

(6) The expression "Rules of the Supreme Court" shall, except in section ninety-two of this Act, mean act of sederunt:

(7) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification, shall be served on the comptroller, and he shall rectify the register accordingly:

(8) The expression "injunction" means "interdict."

95. *Application to Ireland.* In the application of this Act to Ireland—

(1) All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only:

(2) The provisions of this Act conferring a special jurisdiction on the court, as defined by this Act, shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Ireland in any proceedings relating to patents or to designs; and with reference to any such proceedings the term "the Court" means the High Court in Ireland:

(3) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly.

96. *Isle of Man.* This Act shall extend to the Isle of Man, subject to the following modifications:—

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement, or in any action or proceeding respecting a patent or design competent to those courts:

(2) The punishment for a misdemeanour under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding one hundred pounds, at the discretion of the court:

(3) Any offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offences punishable on summary conviction may for the time being be prosecuted.

*Repeal, Savings, and Short Title.*

97. *Saving for prerogative.* Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

98. *Repeal and savings.*—(1) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule—

(a) As respects the enactments mentioned in Part I. of that Schedule, as from the commencement of this Act;

(b) As respects the enactments mentioned in Part II. of that Schedule, as from the date when rules of the Supreme Court regulating the matters dealt with in those enactments come into operation;

(c) As respects the enactments mentioned in Part III. of that Schedule, as from the date when rules under this Act regulating the matters dealt with in those enactments come into operation.

and the enactments mentioned in Part II. and Part III. of that Schedule shall, until so repealed, have effect as if they formed part of this Act:

Provided that this repeal shall not affect any convention, Order in Council, rule, or table of fees having effect under any enactment so repealed, but any such convention, Order in Council, rule, or table of fees in force at the commencement of this Act shall continue in force, and may be repealed, altered or amended, as if it had been made under this Act.

(2) Except where otherwise expressly provided, this Act shall extend to all patents granted and all designs registered before the commencement of this Act, and to applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

99. *Short title and commencement.* This Act may be cited as the Patents and Designs Act, 1907, and shall, save as otherwise expressly provided, come into operation on the first day of January one thousand nine hundred and eight.

## SCHEDULES.

### FIRST SCHEDULE.

[Section 65]

#### FEES ON INSTRUMENTS FOR OBTAINING PATENTS AND RENEWAL.

(a) *Up to sealing.*

	£	s.	d.	£	s.	d.
On application for provisional protection ...	1	0	0			
On filing complete specification ...	3	0	0	4	0	0

On filing complete specification with first application ...	4	0	0
On the sealing of the patent in respect of investigations as to anticipation ...	1	0	0

(b) *Further before end of four years from date of patent.*

On certificate of renewal ...	0	0	
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(c) *Further before end of eight years from date of patent.*

On certificate of renewal ...	100	0	0
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*Or in lieu of the fees of £50 and £100 the following annual fees:—*

Before the expiration of the fourth year from the date of the patent ...	10	0	
Before the expiration of the fifth year from the date of the patent ...	10	0	0
Before the expiration of the sixth year from the date of the patent ...	10	0	0
Before the expiration of the seventh year from the date of the patent ...	10	0	0
Before the expiration of the eighth year from the date of the patent ...	15	0	0
Before the expiration of the ninth year from the date of the patent ...	15	0	0
Before the expiration of the tenth year from the date of the patent ...	20	0	0
Before the expiration of the eleventh year from the date of the patent ...	20	0	0
Before the expiration of the twelfth year from the date of the patent ...	20	0	0
Before the expiration of the thirteenth year from the date of the patent ...	20	0	0



SECOND SCHEDULE.

[Section 98.]

ENACTMENTS REPEALED.

PART I.

Session and Chapter.	Short title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	The whole Act, except sub-sections (5), (6), and (7) of section twenty-six, section twenty-nine, sub-sections (2) and (3) of section forty-seven, and section forty-eight.
48 & 49 Vict. c. 63.	The Patents, Designs, and Trade Marks (Amendment) Act, 1885.	The whole Act.
49 & 50 Vict. c. 37.	The Patents Act, 1886.	The whole Act.
51 & 52 Vict. c. 50.	The Patents, Designs, and Trade Marks Act, 1888.	The whole Act.
1 Edw. 7, c. 18.	The Patents Act, 1901.	The whole Act.
2 Edw. 7, c. 34.	The Patents Act, 1902.	The whole Act.
7 Edw. 7, c. 28.	The Patents and Designs (Amendment) Act, 1907.	The whole Act.

PART II.

Session and Chapter.	Short title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sub-sections (5), (6) and (7) of section twenty-six, and section twenty-nine.

PART III.

Session and Chapter.	Short title.	Extent of Repeal.
46 & 47 Vict. c. 57.	The Patents, Designs, and Trade Marks Act, 1883.	Sub-sections (2) and (3) of section forty-seven, and section forty-eight.

CHAPTER 30.

[Public Health (Scotland) Amendment Act, 1907.]

An Act to amend sections fifty-seven, fifty-eight, and fifty-nine of the Public Health (Scotland) Act, 1897, relating to the prevention of infectious diseases.  
[28th August 1907.]

CHAPTER 31.

[Vaccination Act, 1907.]

An Act to substitute a Statutory Declaration for the Certificate required under section two of the Vaccination Act, 1898, of Conscientious Objection. [28th August 1907.]

Be it enacted, &c. :-

1. Substitution of statutory declaration as to conscientious objection for certificate of justices.] The Vaccination Act, 1898 [61 & 62 Vict. c. 49], shall be read as if the following section were substituted for section two of that Act :-

- (1) No parent or other person shall be liable to any penalty under section twenty-nine or section thirty-one of the Vaccination Act of 1867 [30 & 31 Vict. c. 84], if within four months from the birth of the child he makes a statutory declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers or sends by post the declaration to the vaccination officer of the district.
- (2) A statutory declaration made for the purposes of this section shall be exempt from stamp duty.
- (3) A statutory declaration for the purposes of this section shall be made in the form set out in the schedule to this Act, or in a form to the like effect.

2. Repeal.] Section two of the Vaccination Act, 1898, is hereby repealed, but the repeal shall not affect the operation of any certificate obtained before the commencement of this Act.

3. Commencement and short title.]—(1) This Act shall come into operation on the first day of January nineteen hundred and eight.

(2) This Act may be cited as the Vaccination Act, 1907, and may be cited with the Vaccination Acts, 1867 to 1898.

SCHEDULE.

[Section 1.]

FORM OF DECLARATION.

I, A.B., of in the parish of in the county of being the parent [or person having the custody] of a child named C.D., he was born on the day of 19, do hereby solemnly and sincerely declare that I conscientiously believe that vaccination would be prejudicial to the health of the child, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Dated this day of 19.

Declared before me, at Signed, A.B. on the day of

E.F.,  
a Commissioner for Oaths [or Justice of the Peace, or other officer authorised to receive a statutory declaration].

CHAPTER 32.

[Public Health (Regulations as to Food) Act, 1907.]

An Act to enable regulations to be made for the prevention of danger arising to public health from the importation, preparation, storage, and distribution of articles of food.  
[28th August 1907.]

Be it enacted, &c. :-

1. Power to make regulations as to the importation, preparation, storage, and distribution of articles of food.]—(1) The power of making regulations under the Public Health Act, 1896 [59 & 60 Vict. c. 19], and the enactments mentioned in that Act, shall include the power of making regulations authorising measures to be taken for the prevention of danger arising to public health from the importation, preparation, storage, and distribution of articles of food or drink (other than drugs or water) intended for sale for human consumption, and, without prejudice to the generality of the powers so conferred, the regulations may—

- (a) provide for the examination and taking of samples of any such articles;
- (b) apply, as respects any matters to be dealt with by the regulations, and provision in any Act of Parliament dealing with the like matters, with the necessary modifications and adaptations;
- (c) provide for the recovery of any charges authorised to be made by the regulations for the purposes of the regulations or any services performed thereunder;

(2) For the purposes of regulations made under this Act, articles commonly used for the food or drink of man shall be deemed to be intended for sale for human consumption unless the contrary is proved.

(3) In the application of this Act to Scotland, Part IV. of the Public Health (Scotland) Act, 1897 [60 & 61 Vict. c. 38], shall be substituted for the Public Health Act, 1896.

2. Publication of regulations.] All regulations made under this Act shall be laid as soon as may be before Parliament, and the Rules Publication Act, 1893 [56 & 57 Vict. c. 66], shall apply to such regulations as if they were statutory rules within the meaning of section one of that Act, and that Act as so applied shall, notwithstanding anything in sub-section five of section one thereof, extend to Scotland, with the substitution of a reference to the Edinburgh Gazette for the reference to the London Gazette.

3. Short title.] This Act may be cited as the Public Health (Regulations as to Food) Act, 1907.

CHAPTER 33.

[Qualification of Women (County and Borough Councils) Act, 1907.]

An Act to amend the Law relating to the capacity of Women to be elected and act as Members of County or Borough Councils.  
[28th August 1907.]

Be it enacted, &c. :-

1. Provision as to capacity of women to be county or borough councillors or aldermen.]—(1) A woman shall not be disqualified by sex or marriage for being elected or being a councillor or alderman of the council of any county or borough (including a metropolitan borough):

Provided that a woman if elected as chairman of a county council or mayor of a borough shall not by virtue of holding or having held that office be a justice of the peace.

(2) The words "provided that no woman shall be eligible for any such office" in sub-section (1) of section two of the London Government Act, 1899 [62 & 63 Vict. c. 14], are hereby repealed.

2. Short title and extent.]—(1) This Act may be cited as the Qualification of Women (County and Borough Councils) Act, 1907.

(2) This Act shall not extend to Scotland or Ireland.

CHAPTER 34.

[Expiring Laws Continuance Act, 1907.]

An Act to continue various Expiring Laws.  
[28th August 1907.]

CHAPTER 35.

[Council of India Act, 1907.]

An Act to amend the Law as to the Council of India.  
[28th August 1907.]

CHAPTER 36.

[Public Works Loans Act, 1907.]

An Act to grant Money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.  
[28th August 1907.]

CHAPTER 37.

[Transvaal Loan (Guarantee) Act, 1907.]

An Act to authorise the Treasury to guarantee the payment of a Loan to be raised by the Colony of the Transvaal.  
[28th August 1907.]

CHAPTER 38.

[Irish Land Act, 1907.]

An Act to make provision with respect to the Disposal of Mining Rights under section thirteen of the Irish Land Act, 1903, and to amend section fifty-four of that Act.  
[28th August 1907.]

## CHAPTER 39.

[Factory and Workshop Act, 1907.]

An Act to amend the Factory and Workshop Act, 1901, with respect to Laundries, and to extend that Act to certain Institutions and to provide for the inspection of certain premises. [28th August 1907.]

Be it enacted, &c. :-

## LAUNDRIES.

1. *Application of 1 Edw. 7, c. 22 to laundries.* The Factory and Workshop Act, 1901 (which Act, as amended by any subsequent enactment, including this Act, is herein-after referred to as the principal Act), shall, subject to the provisions of this Act, apply to laundries as if at the end of Part II. of the Sixth Schedule to that Act, enumerating non-textile factories and workshops, the following paragraph were added :-

"(29) Laundries carried on by way of trade or for the purpose of gain, or carried on as ancillary to another business or incidentally to the purposes of any public institution."

2. *Hours of employment of women and young persons in laundries.*—(1) In laundries, other than laundries ancillary to a business carried on in any premises which, apart from the provisions of this Act, are a factory or workshop,—

(a) The period of employment of women may on any three days in the week, other than Saturday, begin at six o'clock in the morning and end at seven o'clock in the evening, or begin at seven o'clock in the morning and end at eight o'clock in the evening, or begin at eight o'clock in the morning and end at nine o'clock in the evening;

Provided that a corresponding reduction is made in the periods of employment on other days of the week, so that the total number of hours of the periods of employment of women, including the intervals allowed for meals, shall not exceed sixty-eight in any one week;

(b) The occupier of a laundry so elects, the following provisions shall apply to the laundry in lieu of the provisions of the last preceding paragraph:—

The period of employment of women may, on not more than four days, other than Saturday, in any one week, and on not more than sixty days in any calendar year, begin at six o'clock in the morning and end at seven o'clock in the evening, or begin at seven o'clock in the morning and end at eight o'clock in the evening, or begin at eight o'clock in the morning and end at nine o'clock in the evening;

(c) Different periods of employment may be fixed for different days of the week.

(2) The foregoing provisions of this section shall be deemed to be special exceptions within the meaning of section sixty of the principal Act, but it shall not be lawful for the occupier of a laundry to change from the system of employment under the above paragraph (a) to the system of employment under the above paragraph (b), or vice versa, oftener than once a year. The entry required to be made in the prescribed register by sub-section four of the said section sixty as so applied shall, in the case of overtime employment under paragraph (b), be made before the commencement of the overtime employment on each day on which it is intended that there should be such employment, and, in reckoning the sixty days for the purposes of paragraph (b), every day on which any woman had been employed overtime shall be taken into account.

(3) Subject as aforesaid, the provisions of the principal Act as to hours of employment shall apply to laundries.

3. *Special regulations to be complied with in laundries.* In every laundry—

(a) If mechanical power is used, a fan or other efficient means shall be provided, maintained, and used for regulating the

temperature in every ironing room, and for carrying away the steam in every washhouse;

(b) All stoves for heating irons must be sufficiently separated from any ironing room or ironing table, and gas irons emitting any noxious fumes must not be used; and

(c) The floors must be kept in good condition and drained in such manner as will allow the water to flow off freely.

A laundry in which there is a contravention of any of these provisions shall be deemed to be a factory or workshop not kept in conformity with the principal Act.

4. *Application of provisions as to domestic workshops.* Sub-section (2) of section one hundred and fourteen of the principal Act (which provides that certain domestic workshops are not to be deemed workshops within the meaning of that Act) shall apply to laundries as if for the words "the altering, repairing, ornamenting, or finishing of any article" there were substituted the words "the altering, repairing, ornamenting, washing, cleaning, or finishing of any article."

## INSTITUTIONS.

5. *Application of Factory and Workshop Acts to certain institutions.*—(1) Where in any premises forming part of an institution carried on for charitable or reformatory purposes, and not being premises subject to inspection by or under the authority of any Government Department, any manual labour is exercised in or incidentally to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of articles not intended for the use of the institution, the provisions of the principal Act shall, subject to the provisions of this Act, apply to those premises notwithstanding that the work carried on therein is not carried on by way of trade or for the purposes of gain, or that the persons working therein are not working under a contract of service or apprenticeship.

(2) If in any institution to which this section applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Secretary of State that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Secretary of State may by order direct that so long as the order is in force the principal Act shall apply to the institution subject to the following modifications:—

(a) The managers may submit for the approval of the Secretary of State a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the workers, and of the education of children, and, if the Secretary of State is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of the principal Act, the Secretary of State may approve the scheme, and upon the scheme being so approved the principal Act shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of the principal Act; any scheme when so approved shall be laid as soon as possible before both Houses of Parliament, and if either House, within the next forty days after such scheme has been laid before that House, resolve that the scheme ought to be annulled, the scheme shall, after the date of the resolution, be of no effect without prejudice to the validity of anything done in the meantime thereunder, or to the making of any new scheme;

(b) The medical officer of the institution (if any) may, on the application of the managers, be appointed by the chief inspector of factories to be the certifying surgeon for the institution;

(c) The provisions of section one hundred and twenty-eight of the principal Act as

to the affixing of an abstract of the principal Act and of notices shall not apply, but amongst the particulars required to be shown in the general register there shall be included the prescribed particulars of the scheme, or where no scheme is in force the prescribed particulars as to hours of employment, intervals for meals, and holidays, and education of children, and other matters dealt with in the principal Act;

(d) In the case of premises forming part of an institution carried on for reformatory purposes, if the managers of the institution so give notice to the chief inspector of factories, an inspector shall not, without the consent of the managers or of the person having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of such person as aforesaid:

Provided that the Secretary of State, on being satisfied that there is reason to believe that a contravention of the principal Act is taking place in any such institution, may suspend the operation of this provision as respects that institution to such extent as he may consider necessary;

(e) The managers shall not later than the fifteenth day of January in each year send to the Secretary of State a correct return in the prescribed form, specifying the names of the managers and the name of the person (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex, and employment of the inmates and other persons employed in the work carried on in the institution as the Secretary of State may require, and shall, if any requirement of this paragraph is not complied with, be liable to a fine not exceeding five pounds.

## SUPPLEMENTAL.

6. *Inspection of certain premises.* Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory or workshop by reason that the work carried on therein is not carried on by way of trade or for the purposes of gain, or by reason that the persons employed in the work are not working under a contract of service or apprenticeship, the Secretary of State may arrange with the department that the premises shall, as respects the matters dealt with by the principal Act, be inspected by an inspector appointed under that Act, and where such an arrangement is made, inspectors appointed under the principal Act shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors of the department concerned.

7. *Short title, construction, commencement, and repeal.*—(1) This Act may be cited as the Factory and Workshop Act, 1907, and shall be construed as one with the Factory and Workshop Act, 1901, and the Factory and Workshop Act, 1901, and this Act may be cited together as the Factory and Workshop Acts, 1901 and 1907.

(2) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

(3) Section one hundred and three of the Factory and Workshop Act, 1901, is hereby repealed.

## CHAPTER 40.

[Notification of Births Act, 1907.]

An Act to provide for the early Notification of Births. [28th August 1907.]

Be it enacted, &c. :

1. *Provisions for the earlier notification of births.* The provisions of this section shall have effect in the area of any local authority in which this Act is adopted by that authority in accordance with the provisions of this Act—



(1) In the case of every child born in an area in which this Act is adopted it shall be the duty of the father of the child, if he is actually residing in the house where the birth takes place at the time of its occurrence, and of any person in attendance upon the mother at the time or, or within six hours after, the birth, to give notice in writing of the birth to the medical officer of health of the district in which the child is born, in manner provided by this section.

(2) Notice under this section shall be given by posting a prepaid letter or postcard addressed to the medical officer of health at his office or residence, giving the necessary information of the birth within thirty-six hours after the birth, or by delivering a written notice of the birth at the office or residence of the medical officer within the same time; and the local authority shall supply without charge addressed and stamped postcards containing the form of notice to any medical practitioner or midwife residing or practising in their area, who applies for the same.

(3) Any person who fails to give notice of a birth in accordance with this section shall be liable on summary conviction to a penalty not exceeding twenty shillings: Provided that a person shall not be liable to a penalty under this provision if he satisfies the court that he had reasonable grounds to believe that notice had been duly given by some other person.

(4) The notification required to be made under this Act shall be in addition to and not in substitution for the requirements of any Act relating to the registration of births; and any registrar of births and deaths whose sub-district or any part thereof is situate within any area in which this Act is adopted shall at all reasonable times have access to notices of births received by the medical officer of health under this Act, or to any book in which those notices may be recorded, for the purpose of obtaining information concerning births which may have occurred in his sub-district.

(5) This section shall apply to any child which has issued forth from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead.

(6) Any expenses incurred by a local authority in the execution of this Act shall be paid as part of the expenses of that authority in the execution of the Acts relating to public health, and in the case of a rural district council shall be paid as general expenses.

**2. Adoption of Act, and definition of local authority.**—(1) A local authority may by resolution adopt this Act in their area, and the provisions set out in the schedule to this Act shall have effect with respect to the resolution of adoption.

(2) A resolution of adoption shall not take effect until the consent of the Local Government Board has been obtained thereto.

(3) It shall be the duty of any local authority by whom this Act is adopted, as soon as the consent of the Local Government Board is given to the resolution of adoption, to bring the provisions of this Act to the attention of all medical practitioners and midwives practising in their area.

(4) In this Act, the expression "local authority" means the council of a borough (excluding the council of a metropolitan borough and the mayor, aldermen, and commons of the city of London in common council assembled), and the council of an urban or a rural district, and the council of a county (other than the county of London) who may adopt the Act either for their whole county or for any county district therein:

Provided that—

(a) where the Act is adopted by the council of a county the county medical officer of health shall be substituted for the medical officer of health of the district, and the expenses of the execution of the Act shall

be paid as general county expenses or special county expenses, as the case requires; and

(b) if, where the Act has been adopted by the council of a county for any county district, the council of the district, or, where the Act has been adopted by the council of a county district for their district, the council of the county, subsequently apply to the Local Government Board to be made the authority for the purposes of this Act, the Board may, if they think fit, make an order declaring that the Act shall take effect as if it had been adopted by the council of the county district instead of the council of the county, or by the council of the county district instead of the council of the county district, as the case may be, and on any such order being made the Act shall take effect in accordance with the order.

(5) In London, the medical officer of health of every metropolitan borough (including the city of London) in which this Act is in force for the time being shall send weekly to the London County Council, in a form prescribed by the Local Government Board, a list of all notices of birth received by him under this Act during the past week.

**3. Power of Local Government Board to put Act in force in the area of any local authority.**—The Local Government Board may by order declare that this Act shall be in force in the area of any local authority who have power to adopt the Act, although it has not been so adopted, if they think it expedient, having regard to the circumstances of the area, and in that case the order of the Local Government Board shall have the same effect for the purpose as a resolution of adoption duly passed by the local authority of the area and assented to by the Local Government Board.

**4. Application to Scotland.**—In the application of this Act to Scotland—

(1) The expression "Local Government Board" means the Local Government Board for Scotland;

(2) The expression "sub-district" means parish or district;

(3) The expression "local authority" and the expression "council" mean the local authority under the Public Health (Scotland) Act, 1897 (60 & 61 Vict. c. 38), and sub-section four of section two shall not apply;

(4) An offence may be tried before the sheriff or before any magistrate of a royal, parliamentary, or police burgh officiating under the provisions of any local or general Police Act; and an offender failing to make payment of a penalty shall be liable to imprisonment in terms of the Summary Jurisdiction Acts.

**5. Application to Ireland.**—In the application of this Act to Ireland, the Local Government Board for Ireland shall be substituted for the Local Government Board, and the expression "sub-district" means a registrar's district under the Acts relating to the registration of births.

**6. Short title.**—This Act may be cited as the Notification of Births Act, 1907.

# SCHEDULE.

## [Section 2.]

### RESOLUTION OF ADOPTION.

1. A resolution of adoption must be passed at a meeting of the council.

2. One calendar month at least before the meeting of the council special notice of the meeting and of the intention to propose the resolution shall be given to every member of the council.

3. A resolution of adoption after being passed shall be published by advertisement in some one or more newspapers circulating within the area of the council by whom the resolution is passed, and otherwise in such manner as the council thinks sufficient for giving notice thereof to all persons interested.

4. A copy of the resolution of adoption shall be sent to the Local Government Board.

5. The resolution of adoption shall come into

operation at such time, not less than one month after the first publication of the advertisement, as may be fixed by the Local Government Board.

# CHAPTER 41.

*[Whale Fisheries (Scotland) Act, 1907.]*

An Act to regulate Whale Fisheries in Scotland.  
[28th August 1907.]

# CHAPTER 42.

*[Sea Fisheries (Scotland) Application of Penalties Act, 1907.]*

An Act to provide for the payment to the Fishery Board for Scotland of the penalties or other moneys recovered in respect of illegal sea fishing in Scotland.  
[28th August 1907.]

# CHAPTER 43.

*[Education (Administrative Provisions) Act, 1907.]*

An Act to make provision for the better administration by the Central and Local Authorities in England and Wales of the enactments relating to Education.  
[28th August 1907.]

Be it enacted, &c.:

1. *Purchase and appropriation of land.*—(1)

A local education authority shall have the same power, exercisable in the same manner, and subject to the same provisions, for the purchase of land either compulsorily or by agreement for the purposes of Part II. of the Education Act, 1902 (2 Edw. 7, c. 42), at they have under the Education Acts for the purposes of Part III. of that Act, but the powers given by this section shall be in addition to and not in derogation of any other powers for the purpose possessed by the authority.

(2) A local education authority may—

(i) appropriate, with the consent of the Board of Education, for the purpose of Part II. of the Education Act, 1902, any land acquired by them for the purposes of Part III. of the Education Act, 1902, or taken over by them under that Act as successors of a school board; and

(ii) appropriate, with the consent of the Board of Education, for the purposes of Part III. of the Education Act, 1902, any land acquired by them for the purpose of Part II. of the Education Act, 1902, either under that Act, or for similar purposes under any Act repealed by that Act; and

(iii) appropriate, with the consent of and after inquiry by the Local Government Board, for any of the purposes of the Education Acts, any land acquired by them otherwise than in their capacity as local education authority;

(3) The council of a non-county borough or urban district may appropriate, with the consent of and after inquiry by the Local Government Board, for the purpose of their power to supply or aid the supply of education other than elementary, any land acquired by them under any other power.

(4) The appropriation of land by a local education authority or a council under this section shall be subject in any case to any special covenants or agreements affecting the use of the land in their hands.

(5) Where the capital expenditure in connection with any land appropriated under this section or any loan for the purpose of repaying that expenditure or any part of that expenditure or loan has been, or is charged on, or raised within, any special part of the area of the local education authority or council, and the Board of Education or, in the case of land appropriated under this section and not acquired for any of the purposes of the Education Acts, the Local Government Board, are of opinion that the use of the land for the purposes for which it is appropriated will alter the area benefited by the expenditure, the Board of Education, or the Local Government Board, as the case requires, shall order such equitable adjustment in respect

thereof to be made as they think right under the circumstances, and the local education authority or council shall comply with any order so made.

(6) A council shall have power, with the consent of and after inquiry by the Board of Education, to alienate any land acquired or held by them for purposes of education other than elementary under Part II. of the Education Act, 1902, and, in the case of the sale of any such land, the proceeds of sale shall be applied in such manner as the Local Government Board sanction, towards the discharge of any loan of the council under the Education Acts, or otherwise for any purpose for which capital may be applied by the council under those Acts.

**2. Substitution, in certain cases, of consent of Board of Education for consent of Home Secretary.]** The consent of the Board of Education shall be substituted for the consent of the Secretary of State for the Home Department in cases where the consent of the said Secretary of State is required under section fourteen of the School Sites Act, 1841 [4 & 5 Vict. c. 38], and section one of the School Grants Act, 1855 [18 & 19 Vict. c. 131] (which relate to sales, exchange, or mortgages of school premises).

**3. Extension of period for repayment of money borrowed by county council.]** In the application of section sixty-nine of the Local Government Act, 1888 [51 & 52 Vict. c. 41], to money borrowed after the passing of this Act under the Education Acts by the council of a county, a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the maximum period within which borrowed money is to be repaid, and any money reborrowed for the purpose of discharging a loan raised for the purposes of the Education Acts may, if the Local Government Board approve, and subject to such conditions as they impose, be repaid within such period, not exceeding sixty years from the date of the original loan, as the Local Government Board fix.

**4. Power of county council to contribute towards capital expenditure incurred by non-county boroughs or urban districts within their county for the purposes of higher education.]—**

(1) In the exercise of their powers and duties under section two of the Education Act, 1902, a county council shall have power and at all times since the commencement of that Act shall be deemed to have had power to agree with the council of any non-county borough or urban district within their area for the payment to that last-mentioned council of a contribution towards the capital expenditure incurred by them in respect of education other than elementary to such an amount and in such instalments and for such period and subject to such conditions as may be specified in the agreement.

(2) Where any such agreement is made the contribution agreed to be paid by the county council shall, for the purposes of section nineteen of the Education Act, 1902, form part of the security on which money may be borrowed by the council of the non-county borough or urban district under that section.

**5. Decision of questions as to capital expenditure.]** If the Local Government Board by order declare that expenses incurred for particular purposes specified in the order may or may not be properly treated under section eighteen of the Education Act, 1902, as expenses incurred in respect of capital expenditure, no question shall be raised on audit as to the treatment of expenses incurred for those particular purposes if they are treated in accordance with the order.

**6. Audit of accounts of joint educational bodies.]** Where any receipts or payments of money under the Education Acts are entrusted to any joint education committee established under section seventeen of the Education Act, 1902, or to any joint body established under section fifty-two of the Elementary Education Act, 1870 [33 & 34 Vict. c. 75], or otherwise established by two or more local authorities, the accounts of those receipts and payments shall, unless in any case the Local Government Board direct to the contrary, or any provisions to the contrary which

have been approved by the Local Government Board are contained in the scheme or instrument establishing the committee or body, be audited as if the joint committee or body were a separate local education authority, and the enactments relating to the audit of the accounts of local education authorities (including the penal provisions of those enactments) shall apply accordingly.

**7. Power to provide for apportionment of expenses in a scheme constituting a joint education committee.]** A scheme providing for the constitution of a joint education committee under sub-section (5) of section seventeen of the Education Act, 1902, may make provision for the proportions in which any expenditure on matters referred or delegated to that committee is to be borne as between the councils of the counties, boroughs, or urban districts, or parts thereof forming the area for which the joint committee is constituted.

**8. Borrowing from Public Works Loan Commissioners.]** The Public Works Loan Commissioners may lend to a local education authority any money which that authority are authorised to borrow for the purposes of Part II. of the Education Act, 1902.

**9. Amendment of s. 7 of 56 & 57 Vict. c. 42.]** The condition that the annual expenses of the maintenance of a school not managed by a school authority are, to the extent of not less than one third, to be defrayed out of sources other than local rates or moneys provided by Parliament, shall cease to be a condition required for the grant of a certificate under section seven of the Elementary Education (Blind and Deaf Children) Act, 1893, to such a school as a school suitable for providing elementary education for blind or deaf children.

**10. Decision of certain educational questions by Board of Education.]** If any question arises whether any purpose for which a council wish to exercise any powers under the Education Acts is a purpose of Part II. of the Education Act, 1902, or of Part III. of that Act, that question shall be referred to and determined by the Board of Education, and their decision shall be conclusive on the matter.

**11. Provisions with respect to scholarships, bursaries, &c.]** The powers and duties of a local education authority under Part III. of the Education Act, 1902, shall include a power to aid by scholarships or bursaries the instruction in public elementary schools of scholars from the age of twelve up to the limit of age fixed for the provision of instruction in a public elementary school by sub-section two of section twenty-two of the Education Act, 1902, are hereby repealed.

**12. Higher education powers not confined to persons resident in area.]** It is hereby declared that any power of a council under the Education Act, 1902, to supply or aid the supply of education other than elementary is not confined to the education of persons resident in their area and the words "ordinarily resident in the area of the council," in sub-section (2) of section twenty-three of the Education Act, 1902, are hereby repealed.

**13. Provisions as to vacation schools, health of school children, &c., in elementary schools.]—**(1) The powers and duties of a local education authority under Part III. of the Education Act, 1902, shall include—

(a) power to provide, for children attending a public elementary school, vacation schools, vacation classes, play-centres, or other means of recreation during their holidays or at such other times as the local education authority may prescribe, in the schoolhouse or in some other suitable place in the vicinity, so far as the local education authority, in the case of a schoolhouse or place not belonging to them, can obtain for the purpose the use of the schoolhouse or place; and

(b) The duty to provide for the medical inspection of children immediately before or at the time of or as soon as possible after their admission to a public elementary school, and on such other occasions as the Board of Education direct, and the

power to make such arrangements as may be sanctioned by the Board of Education for attending to the health and physical condition of the children educated in public elementary schools:

Provided that in any exercise of powers under this section, the local education authority may encourage and assist the establishment or continuance of voluntary agencies, and associate with itself representatives of voluntary associations for the purpose.

(2) This section shall come into operation on the first day of January nineteen hundred and eight.

**14. Distance from school no excuse for non-attendance when conveyance is provided.]—**(1) When a local education authority provide suitable means of conveyance for a child between a reasonable distance of its home and a public elementary school, it shall not be a reasonable excuse for the purposes of section seventy-four of the Elementary Education Act, 1870, or section eleven of the Elementary Education Act, 1876 [39 & 40 Vict. c. 79], or a ground of exemption for the purposes of section nine of the latter Act, that there is no public elementary school open which such child can attend within the distance of its residence prescribed by those sections or by any bye-law made under section seventy-four of the Elementary Education Act, 1870.

(2) For the purposes of paragraph (c) of sub-section one of section eighteen of the Education Act, 1902, the county council may treat any expenses incurred by them in providing means of conveyance for teachers or children attending a public elementary school under sub-section one of section twenty-three of the Education Act, 1902, in the same manner as they may treat the capital expenditure mentioned in the said paragraph (c).

**15. Returns by councils having powers under Part II. of the Education Act, 1902.]** Every council having powers under Part II. of the Education Act, 1902, shall give to the Board of Education such information with respect to the exercise of those powers as the Board may from time to time require.

**16. Register of teachers.]—**(1) Any obligation to frame, form, or keep a register of teachers under paragraph (a) of section four of the Board of Education Act, 1899 [62 & 63 Vict. c. 33], shall cease: Provided that it shall be lawful for His Majesty by Order in Council to constitute a registration council representative of the teaching profession, to whom shall be assigned the duty of forming and keeping a register of such teachers as satisfy the conditions of registration established by the Council for the time being, and who apply to be registered.

(2) The register shall contain the names and addresses of all registered teachers in alphabetical order in one column, together with the date of their registration, and such further statement as regards their attainments, training, and experience as the Council may from time to time determine that it is desirable to set forth.

(3) Any Order in Council under this section may be revoked, altered, or added to by any subsequent Order.

(4) Such provision shall be made by Order in Council under this section as may appear necessary or expedient for transferring any funds or property held by the existing Teachers' Registration Council to the Registration Council to be constituted under this section and for winding up the business of the existing council and thereafter dissolving the council.

(5) The existing Teachers' Registration Council means the Teachers' Registration Council established by Order in Council made under paragraph (a) of section four of the Board of Education Act, 1899.

**17. Repeal, short title, and construction.]—**(1) The enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

(2) This Act may be cited as the Education (Administrative Provisions) Act, 1907, and shall be construed as one with the Education Acts, 1870 to 1903, and those Acts and this Act are in



this Act referred to as the Education Acts, and may be cited as the Education Acts, 1870 to 1907.

SCHEDULE.

[Section 17.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
56 & 57 Vict. c. 42.	The Elementary Education (Blind and Deaf Children) Act, 1893.	The words "to the extent of not less than one third defrayed out of sources other than local rates or moneys provided by Parliament and are," in paragraph (b) of sub-section (1) of section seven.
62 & 63 Vict. c. 33.	The Board of Education Act, 1899.	Paragraph (a) of section four.
63 & 64 Vict. c. 53.	The Elementary Education Act, 1900.	Section five.
2 Edw. 7, c. 42.	The Education Act, 1902.	The words "ordinarily resident in the area of the council," in sub-section two of section twenty-three.

CHAPTER 44

[Supreme Court of Judicature (Ireland) Act, 1907.]

An Act to provide for the Abolition of two Judgeships of the High Court in Ireland, and to reduce the Salary of the Lord Chancellor of Ireland, and for other purposes connected therewith.

[28th August 1907.]

CHAPTER 45.

[Lights on Vehicles Act, 1907.]

An Act to render compulsory the carrying of Lights by Vehicles at Night.

[28th August 1907.]

Be it enacted, &c.:

1. *Lights to be carried by vehicles at night.*—

(1) Subject to the provisions of this Act, every person who shall cause or permit any vehicle to be in any street, highway, or road, to which the public have access, during the period between one hour after sunset and one hour before sunrise shall provide such vehicle with a lamp or lamps in proper working order and so constructed and capable of being so attached as when lighted to display to the front a white light visible for a reasonable distance. If only one lamp is so provided it shall be placed on the off or right side of the vehicle, and, if the lamp or lamps are so constructed as to permit a light to be seen from the rear, that light shall be red.

(2) He shall also, if the vehicle is used for the purpose of carrying timber or any load projecting more than six feet to the rear, provide the same with a lamp or lamps in proper working order and so constructed and capable of being so attached as when lighted to display to the rear a red light visible for a reasonable distance.

(3) Every person driving or being in charge of any vehicle in any street, highway, or road, to which the public have access during such period as aforesaid, shall keep such lamp or lamps properly trimmed, lighted, and attached.

2. *Penalty.* If any person offends against any of the provisions of this Act, he shall be liable on summary conviction for each and every such offence to a penalty not exceeding forty shillings, and in the case of a second or subsequent conviction to a penalty not exceeding five pounds:

Provided that if a person driving or being in charge of a vehicle is charged with an offence under this Act, he shall not be convicted thereof

if he proves to the satisfaction of the court that such offence arose through the neglect or default of some other person whose duty it was to provide the vehicle with a lamp or lamps.

3. *Power of council of a borough to make orders of exemption.*—(1) The council of any borough may by order approved by the Secretary of State exempt from the operation of this Act, subject to any conditions mentioned in the order, any vehicle which is carrying any inflammable goods of a kind specified in the order, or any vehicle being within any place specified in the order in which, in the opinion of the council, it would be dangerous to enforce the provisions of this Act owing to the fact that inflammable goods are usually stored or dealt with in or near the place.

(2) Public notice of a proposal to make any order, and of the manner in which objections may be lodged to the proposed order, and of any order when made and approved, shall be given by the council of the borough in such manner as may be directed by the Secretary of State.

(3) The Secretary of State shall, before approving any order under this section, consider any objections to it which may be lodged in manner provided by this section, and may, if he thinks fit, order that a local inquiry be held with respect to the approval of the order, or with respect to any objections to the order.

(4) The person holding any such inquiry shall receive such remuneration as the Secretary of State may determine, and the remuneration and the expenses of the local inquiry shall be paid by the council of the borough out of the borough fund or rate.

(5) In the application of this section to the county of London, the London County Council shall be substituted for the council of a borough, and the county fund for the borough fund or rate; and, in the application of this section to the city of London, the mayor, aldermen, and commons of that city, in common council assembled, shall be substituted for the council of a borough, and the consolidated rate for the borough fund or rate.

(6) The Mersey Docks and Harbour Board shall as respects the area under their control have the same power to make an order of exemption under this section as the council of a borough have as respects their borough, and the powers of the council of a borough under this section shall not extend to any part of the borough which is situated within that area.

In the application of this section to the area under the control of the Board, the Board shall be substituted for the council of the borough and the funds at the disposal of the Board for the borough fund or rate.

4. *Power of county council to make orders of exemption for the purpose of harvesting.*—The council of any county may by order exempt from the operations of this Act vehicles carrying in the course of harvesting operations any farm produce to stack or barn during such months or periods in the year as may be specified in the order, and any such orders may be made either to take effect throughout the whole county or to take effect in part only of the county. A copy of any order made by a council under this section shall, as soon as may be after it is made, be sent to the Secretary of State, and any such order shall be published by the council by advertisement or otherwise in such manner as the council think best adapted for giving public notice thereof.

5. *Application of Act and repeal of existing byelaws.*—(1) This Act shall apply to every sort of vehicle except the following:—

(a) Any bicycle, tricycle, or velocipede to which the provisions of section eighty-five of the Local Government Act, 1888 [51 & 52 Vict. c. 41], requiring lamps to be carried apply;

(b) Any light locomotive or motor car which is required to carry lamps under section two of the Locomotives on Highways Act, 1896 [59 & 60 Vict. c. 36], or any regulations made thereunder;

(c) Any other locomotive which is required to carry lights under section three of the Locomotives Act, 1865 [28 & 29 Vict. c.

85], as amended by section five of the Locomotives Act, 1896 [61 & 62 Vict. c. 29], or wagon drawn by that locomotive; (d) Any vehicle drawn or propelled by hand.

(2) This Act shall apply to any machine or implement of any kind drawn by animal traction as it applies to vehicles.

(3) Any byelaws under the Local Government Act, 1888, the Municipal Corporations Act, 1882 [45 & 46 Vict. c. 50], or any other Act, and any provisions of any local and personal Act, or byelaws or regulations made thereunder by a local authority, with respect to the carrying of lights on vehicles, shall so far as respects vehicles to which this Act applies cease to have effect, but this provision shall not affect any power under any such Act to make, with respect to the carrying of lights on vehicles, any fresh byelaw or regulation imposing obligations additional to those imposed by this Act.

(4) This Act shall apply to vehicles in the public service of the Crown, subject to any exceptions which His Majesty may make by Order in Council in the interests of the naval or military service of the Crown, and in the case of any such vehicle the person whom the department in whose service the vehicle is used names as the person actually responsible shall be deemed for the purpose of this Act to be the person who causes or permits the vehicle to be in any street, highway, or road.

6. *Extent of Act.* This Act shall not apply to Scotland.

7. *Application to Ireland.* In the application of this Act to Ireland, the Lord Lieutenant shall be substituted for the Secretary of State, and the provision as to the position of the lamp, if only one lamp is provided, shall not apply in the case of a bicycle, tricycle, velocipede, or other similar machine.

8. *Short title.* This Act may be cited as the Lights on Vehicles Act, 1907.

9. *Commencement of Act.* This Act shall come into force on the first day of January nineteen hundred and eight.

CHAPTER 46.

[Employers' Liability Insurance Companies Act, 1907.]

An Act to apply the provisions of the Life Assurance Companies Acts, 1870 to 1872, to companies carrying on the business of insuring Employers against Liability to pay compensation or damages to workmen in their employment. [28th August 1907.]

Be it enacted, &c.:

1. *Application of Acts.*—(1) The provisions of the Life Assurance Companies Acts, 1870 to 1872, relating to life assurance companies established or commencing to carry on business of life assurance within the United Kingdom after the passing of the Life Assurance Companies Act, 1870 [33 & 34 Vict. c. 61], shall apply to every company, whether established before or after the passing of this Act, which carries on within the United Kingdom the business of insuring employers against liability to pay compensation or damages to workmen in their employment, subject to such necessary modifications and adaptations as may be made therein by Order in Council:

Provided that—

(a) those provisions shall not apply—

(i) to any company which carries on such business as aforesaid as incidental only to the business of marine insurance by issuing marine policies, or policies in the form of marine policies covering such liability as aforesaid, as well as marine adventure or adventure analogous thereto; or

(ii) to an association of employers which satisfies the Board of Trade that it is carrying on business wholly or mainly for the purpose of the mutual insurance of its members either against liability to pay compensation or damages to workmen employed by them, or against that liability and against any

other risk incident to their trade or industry; or

(iii) to a member of Lloyd's or any other association of underwriters approved by the Board of Trade, provided that he complies with the requirements set forth in the Schedule to this Act; and

(b) such of those provisions as relate to deposits shall not apply to any company which has commenced to carry on such business as aforesaid within the United Kingdom before the passing of this Act.

(2) Where money is paid into a county court under the provisions of the Schedule to this Act, the court shall (unless the court for special reason sees fit to direct otherwise) order the lump sum to be invested or applied, in the purchase of an annuity or otherwise, in such manner that the duration of the benefit thereof may, as far as possible, correspond with the probable duration of the incapacity.

(3) For the purposes of this section the expression "company" means any person or persons, corporate or unincorporate, not being registered under the Acts relating to friendly societies.

(4) In the application of this Act to Scotland the expression "county court" means sheriff court.

2. *Short title and commencement.* This Act may be cited as the Employers' Liability Insurance Companies Act, 1907, and shall come into operation on such day as may be specified in an Order in Council under this Act.

#### SCHEDULE.

[Section 1.]

#### REQUIREMENTS TO BE COMPLIED WITH BY UNDERWRITERS.

1. Every underwriter shall deposit and keep deposited in such manner as the Board of Trade may direct a sum of two thousand pounds. The Board of Trade may make rules as to the payment, repayment, investment of, and dealing with a deposit, the payment of interest and dividends from any such investment, and for any other matters in respect of which they may make rules under section one of the Life Assurance Companies Amendment Act, 1872, in relation to deposits made by life assurance companies. The sum so deposited shall so long as any liability under any policy issued by the underwriter remains unsatisfied be available solely to meet claims under such policies.

2. Where the person insured by any policy issued by an underwriter is liable to make a weekly payment to any workman during the incapacity of the workman, and the weekly payment has continued for more than six months, the liability therefor shall before the expiration of twelve months from the commencement of the incapacity be redeemed by the payment of a lump sum in accordance with paragraph (17) of the First Schedule to the Workmen's Compensation Act, 1906, and the underwriter shall pay the lump sum into the county court and shall inform the court that the redemption has been effected in pursuance of the provisions of this Schedule.

3. The underwriter shall furnish every year to the Board of Trade a statement in such form as may be prescribed by the Board showing the extent and character of the employers' liability business effected by him.

4. For the purposes of this Schedule "policy" means a policy insuring any employer against liability to pay compensation or damages to workmen in his employment.

#### CHAPTER 47.

[*Deceased Wife's Sister's Marriage Act, 1907.*]

An Act to amend the Law relating to Marriage with a Deceased Wife's Sister.

[28th August 1907.]

Be it enacted, &c.:-

1. *Marriage with a deceased wife's sister not to be deemed void as a civil contract except in certain cases.* No marriage heretofore or hereafter contracted between a man and his deceased wife's sister, within the realm or without shall be deemed to have been or shall be void or voidable,

as a civil contract, by reason only of such affinity: Provided always that no clergyman in holy orders of the Church of England shall be liable to any suit, penalty, or censure, whether civil or ecclesiastical, for anything done or omitted to be done by him in the performance of the duties of his office, to which suit, penalty, or censure he would not have been liable if this Act had not been passed:

Provided also that when any minister of any church or chapel of the Church of England shall refuse to perform such marriage service between any persons who, but for such refusal, would be entitled to have the same service performed in such church or chapel, such minister may permit any other clergyman in holy orders in the Church of England, entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

Provided also that in case, before the passing of this Act, any such marriage shall have been annulled, or either party thereto (after the marriage and during the life of the other) shall have lawfully married another, it shall be deemed to have become and be void upon and after the day upon which it was so annulled, or upon which either party thereto lawfully married another as aforesaid.

2. *Saving of existing rights and interests.* No right, title, estate or interest, whether in possession or expectancy, and whether vested or contingent at the time of the passing of this Act, existing in, to, or in respect of, any dignity, title of honour, or property, and no act or thing lawfully done or omitted before the passing of this Act shall be prejudicially affected nor shall any will be deemed to have been revoked by reason of any marriage heretofore contracted as aforesaid being made valid by this Act. And no claim by the Crown for duties leviable on or with reference to death, and before the passing of this Act due and payable, and no payment, commutation, composition, discharge, or settlement of account in respect of any duties leviable on or with reference to death before the passing of this Act duly made or given, shall be prejudicially affected by anything herein contained.

Nothing in this Act shall affect the devolution or distribution of the real or personal estate of any intestate, not being a party to the marriage, who at the time of the passing of this Act shall be and shall until his death continue to be a lunatic, so found by inquisition.

3. *Saving for 20 & 21 Vict. c. 85, s. 27.*-(1) Nothing in this Act shall remove wives' sisters from the class of persons adultery with whom constitutes a right, on the part of wives, to sue for divorce under the Matrimonial Causes Act, 1857.

(2) Notwithstanding anything contained in this Act or the Matrimonial Causes Act, 1857, it shall not be lawful for a man to marry the sister of his divorced wife, or of his wife by whom he has been divorced, during the lifetime of such wife.

4. *Liability of clergyman to ecclesiastical censure.* Nothing in this Act shall relieve a clergyman in holy orders of the Church of England from any ecclesiastical censure to which he would have been liable if this Act had not been passed by reason of his having contracted or hereafter contracting a marriage with his deceased wife's sister.

5. *Interpretation.* In this Act the word "sister" shall include a sister of the half-blood.

6. *Short title.* This Act may be cited as the Deceased Wife's Sister's Marriage Act, 1907.

#### CHAPTER 48.

[*Qualification of Women (County and Town Councils) (Scotland) Act, 1907.*]

An Act to amend the Law relating to the capacity of Women to be elected and act as Members of County or Town Councils in Scotland.

[28th August 1907.]

#### CHAPTER 49.

[*Vaccination (Scotland) Act, 1907.*]

An Act to amend the Law with respect to Vaccination in Scotland by authorising a statutory declaration of conscientious objection.

[28th August 1907.]

#### CHAPTER 50.

[*Companies Act, 1907.*]

An Act to amend the Companies Acts, 1862 to 1900.

[28th August 1907.]

Be it enacted, &c.:-

#### PROSPECTUS AND ALLOTMENT.

1. *Obligations of companies where no prospectus is issued.*-(1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the registrar a statement in lieu of prospectus, signed by every person who is named therein as a director or proposed director of the company or by his agent authorised in writing, in the form and containing the particulars set out in the First Schedule to this Act.

(2) Sections two, six, and eleven of the Companies Act, 1900 [63 & 64 Vict. c. 48], as amended by this Act, shall apply to companies which do not issue a prospectus inviting public subscription of their shares, subject to the modifications set out in the Second Schedule to this Act.

(3) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription (that is to say):-

(a) the amount (if any) fixed by the memorandum or articles of association and named in the statement in lieu of prospectus as the minimum subscription upon which the directors may proceed to allotment; or

(b) if no amount is so fixed and named, then the whole amount of share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash,

has been subscribed and an amount not less than five per cent. of the nominal amount of each share payable in cash has been paid to and received by the company.

(4) Section five of the Companies Act, 1900, shall apply as if the foregoing provisions of this section were included amongst the foregoing provisions of that Act mentioned in the said section five.

(5) This section shall not apply to private companies as defined by this Act, or to any company which has allotted any shares or debentures before the commencement of this Act.

2. *Amendment of 63 & 64 Vict. c. 48, s. 10.*-(1) The following sub-section shall be substituted for sub-section one of section ten of the Companies Act, 1900:-

"(1) Every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of the company, must state-

"(a) the contents of the memorandum of association, with the names, descriptions, and addresses of the signatories, and the number of shares subscribed for by them respectively; and the number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company; and

"(b) the number of shares, if any, fixed by the articles of association as the qualification of a director, and any provision in the articles of association as to the remuneration of the directors; and

"(c) the names, descriptions, and addresses of the directors or proposed directors; and

"(d) the minimum subscription on which



the directors may proceed to allotment, and the amount payable on application and allotment on each share; and in the case of a second or subsequent offer of shares the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted; and the amount, if any, paid on such shares; and

"(e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued; and

"(f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of publication of the prospectus, and the amount payable in cash, shares, or debentures to the vendor, and, where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor; provided that, where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors; and

"(g) the amount (if any) paid or payable as purchase money in cash, shares, or debentures of any such property as aforesaid, specifying the amount (if any) payable for goodwill; and

"(h) the amount (if any) paid within the two preceding years or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in, or debentures of, the company, or the rate of any such commission; provided that it shall not be necessary to state the commission payable to sub-underwriters; and

"(i) the amount or estimated amount of preliminary expenses; and

"(j) the amount paid within the two preceding years or intended to be paid to any promoter and the consideration for any such payment; and

"(k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected; Provided that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of publication of the prospectus; and

"(l) The names and addresses of the auditors (if any) of the company; and

"(m) full particulars of the nature and extent of the interest (if any) of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company; and

"(n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively."

"(2) The said section of the Companies Act, 1900, shall not apply to a circular or notice in-

viting existing members or debenture holders of the company to subscribe for shares or debentures of the company, whether with or without the right to renounce in favour of other persons, and accordingly in sub-section four of that section for the words "for further shares or debentures" there shall be substituted the words "for shares or debentures of the company, whether with or without the right to renounce in favour of other persons."

3. *Penalty for failure to file prospectus.* If a prospectus is issued without a copy thereof being filed for registration as required by section nine of the Companies Act, 1900, the company and every person who is knowingly a party to the issue of the prospectus shall on conviction be liable to a fine not exceeding five pounds for every day from the date of the issue of the prospectus until a copy thereof is so filed.

4. *Simultaneous offer and allotment of shares and debentures.* The following provision shall be substituted for sub-section four of section six of the Companies Act, 1900:—

"(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares and debentures, or the receipt of any money payable on application for debentures."

5. *Limitation of time for issue of certificates.*

—(1) Every company shall within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the registration of the transfer of any such shares, debentures, or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide.

(2) If default is made in complying with the requirements of this section, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding five pounds for every day during which the default continues.

6. *Filing of contracts of allotment of shares not payable in cash.*—(1) Where such a contract as is mentioned in paragraph (b) of sub-section (1) of section seven of the Companies Act, 1900, is not reduced to writing, the company shall within the time limited in the said section file with the registrar the prescribed particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing.

(2) Such particulars shall be deemed to be an instrument within the meaning of the Stamp Act, 1891 [54 & 55 Vict. c. 39], and the registrar may, as a condition of filing the particulars, require that the duty payable thereon be adjudicated under section twelve of that Act.

(3) The provisions of section seven of the Companies Act, 1900, imposing penalties for default shall apply as if the requirement of this section were a requirement contained in that section.

(4) If default has been made in filing with the registrar within the time limited by section seven of the Companies Act, 1900, any document required to be filed by that section or this section, the company, or any person liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to file the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the court may think proper.

ISSUE OF SHARES AT A DISCOUNT AND PAYMENT OF COMMISSIONS.

7. *Statement as to commissions and discounts.*

The total amount of the sums paid by way of commission in respect of any shares or debentures or allowed by way of discount in respect of any debentures shall be stated in the summary made under section twenty-six of the Companies Act, 1862 [25 & 26 Vict. c. 89], next after the payment of the commission or the allowance of the discount, and the total amount thereof, or so much thereof as has not been written off,

shall be stated in every balance sheet until the whole amount thereof has been written off.

8. *Amendment of 63 & 64 Vict. c. 48, s. 8.*

—(1) For removing doubts it is hereby declared that a vendor to, promoter of, or other person who receives payment in money or shares from, a company has, and always has had, power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under section eight of the Companies Act, 1900.

(2) The said section shall apply in cases where the shares are not offered to the public for subscription; provided that the payment of the commission is authorised by the articles of association of the company, and that the amount or rate paid or agreed to be paid as commission is disclosed in the statement in lieu of prospectus or in a statement in the prescribed form verified in like manner as a statement in lieu of prospectus and filed with the registrar, and, where a circular or notice, not being a prospectus, inviting subscriptions for the shares is issued, also disclosed in that circular or notice.

PAYMENT OF INTEREST OUT OF CAPITAL.

9. *Power of company to pay interest out of capital in certain cases.* Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of such share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work, building, or plant:

Provided that—

(1) No such payment shall be made unless the same is authorised by the company's articles of association or by special resolution of the company;

(2) No such payment, whether authorised by the articles of association or by special resolution, shall be made without the previous sanction of the Board of Trade;

(3) Before sanctioning any such payment the Board of Trade may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may, before making the appointment, require the company to give security for payment of the costs of the inquiry;

(4) The payment shall be made only for such period as may be determined by the Board of Trade; and such period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;

(5) The rate of interest shall in no case exceed four per cent. per annum or such lower rate as may for the time being be prescribed by Order in Council;

(6) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;

(7) The accounts of the company shall show the capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate;

(8) Nothing in this section shall affect any company to which the Indian Railways Act, 1894 [57 & 58 Vict. c. 12], as amended by any subsequent enactment, applies.

MORTGAGES AND CHARGES.

10. *Amendment of 63 & 64 Vict. c. 48, s. 14, as to registration of mortgages and charges.*—

(1) Every mortgage or charge created by a company after the commencement of this Act and being either—

(a) a mortgage or charge for the purpose of securing any issue of debentures; or

(b) a mortgage or charge on uncalled capital of the company; or

(c) a mortgage or charge created or evidenced by an instrument which, if exe-

cut by an individual, would require registration as a bill of sale; or

(d) a mortgage or charge on any land, wherever situate, or any interest therein; or

(e) a mortgage or charge on any book debts of the company; or

(f) a floating charge on the undertaking or property of the company,

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the mortgage or charge, together with the instrument (if any) by which the mortgage or charge is created or evidenced, are delivered to or received by the registrar for registration in manner required by this Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and where a mortgage or charge becomes void under this section the money secured thereby shall immediately become payable:

Provided that—

- (i) In the case of a mortgage or charge created out of the United Kingdom comprising solely property situate outside the United Kingdom, the delivery to and the receipt by the registrar of a copy of the instrument by which the mortgage or charge is created or evidenced, verified in the prescribed manner, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and twenty-one days after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in the United Kingdom, shall be substituted for twenty-one days after the date of the creation of the mortgage or charge, as the time within which the particulars and instrument or copy are to be delivered to the registrar; and
  - (ii) where the mortgage or charge is created in the United Kingdom but comprises property outside the United Kingdom, the instrument creating or purporting to create such mortgage or charge may be sent for registration notwithstanding that further proceedings may be necessary to make such mortgage or charge valid or effectual according to the law of the country in which such property is situate; and
  - (iii) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a mortgage or charge on those book debts;
  - (iv) the holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.
- (2) The registrar shall keep, with respect to each company, a register in the prescribed form of all such mortgages and charges created by the company after the commencement of this Act, and requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of creation, the amount secured by it, short particulars of the property mortgaged or charged, and the names of the mortgagees or persons entitled to the charge.
- (3) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a company, it shall be sufficient, if there are delivered to or received by the registrar within twenty-one days after the execution of the deed containing the charge or, if there is no such deed, after the first issue of any debentures of the series the following particulars:—
- (a) the total amount secured by the whole series; and
  - (b) the dates of the resolutions authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and
  - (c) a general description of the property charged; and

(d) the names of the trustees, if any, for the debenture holders:

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series, and the registrar shall, on payment of the prescribed fee, enter such particulars in the register:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the registrar for entry on the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(4) Where any commission, allowance, or discount has been paid or made, either directly or indirectly by the company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required for registration under this section shall include particulars as to the amount or rate per cent. of the commission, discount, or allowance so paid or made, but an omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this provision be treated as the issue of the debentures at a discount.

(5) The registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of this section, stating the amount thereby secured (which certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with), and the company shall cause a copy of the certificate so given to be endorsed on every debenture or certificate of debenture stock which is issued by the company, and the payment of which is secured by the mortgage or charge so registered:

Provided that nothing in this sub-section shall be construed as requiring a company to cause a certificate of registration of any mortgage or charge given under this section to be endorsed on any debenture or certificate of debenture stock which has been issued by the company before the mortgage or charge was created.

(6) It shall be the duty of the company to send to the registrar for registration the particulars of every mortgage or charge created by the company and of the issues of debentures of a series and requiring registration under this section, but registration of any such mortgage or charge may be effected on the application of any person interested therein, and, if the company fail to comply with the requirements of this sub-section, then, unless the registration has been effected on the application of some other person, the company, and every director, manager, secretary, or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds for every day during which the default continues.

Where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the registrar on the registration.

(7) The register kept, in pursuance of this section, of the mortgages and charges of each company shall be open to inspection by any person on payment of the prescribed fee, not exceeding one shilling for each inspection.

(8) Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this section to be kept at the registered office of the company, and to be open to inspection by the members and creditors of the company in like manner as the register of mortgages under section forty-three of the Companies Act, 1862, and the provisions of that section (including the penal provisions thereof) shall apply accordingly: Provided that, in the case of a series of uniform debentures, a copy of one such debenture shall be sufficient.

(9) Section fourteen of the Companies Act, 1900, is hereby repealed.

11. *Registration of enforcement of security.*—(1) If any person obtains an order for the ap-

pointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the powers contained in the instrument, give notice of the fact to the registrar, and the registrar shall, on payment of the prescribed fee, enter the fact on the register of mortgages and charges.

(2) Where, at the commencement of this Act, any such receiver or manager is acting under an order or appointment made before the commencement of this Act, the notice shall be given within seven days after the commencement of this Act.

(3) If any person makes default in complying with the requirements of this section he shall on conviction be liable to a fine not exceeding five pounds for every day during which the default continues.

12. *Registration of secured debts created before 1st of January, 1901.*—(1) It shall be the duty of a company within three months after the commencement of this Act to send to the registrar for registration a statement of the total amount outstanding at the commencement of this Act of the debts of the company secured by mortgages or charges created before the commencement of this Act, which under the provisions of this Act would have required registration had they been created after the commencement of this Act, except those already required to be registered under section fourteen of the Companies Act, 1900, and the registrar shall, on payment of the prescribed fee, enter those particulars on the register of mortgages and charges:

Provided that the neglect of the company to comply with the provisions of this sub-section shall not prejudice the rights under any such mortgage or charge of any person in whose favour the mortgage or charge was made.

(2) If the company fail to comply with the requirements of this section, the company, and every director, manager, secretary, or other person who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds for every day during which the default continues.

13. *Effect of floating charge.* Where a company is being wound up, a floating charge on the undertaking or property of the company created within three months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent. per annum.

14. *Perpetual debentures.* For removing doubts it is hereby declared that a condition contained in any debentures or in any deed for securing debentures, whether issued or executed before or after the passing of this Act, shall not be invalid by reason only that thereby the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

15. *Power to re-issue redeemed debentures in certain cases.*—(1) Where either before or after the passing of this Act a company has redeemed any debentures previously issued, the company, unless the articles of association of the company or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do, and not being an obligation enforceable only by the person to whom the redeemed debentures were issued, or his assigns, shall have power, and shall be deemed always to have had power, to re-issue the debentures for the purposes of re-issue, and where a company has purported to exercise such a power the company shall have power, and shall be deemed always to have had power, to re-issue the debentures either by re-issuing the same debentures or by issuing other debentures in their place,



and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue they have either before or after the passing of this Act been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purposes of this section.

(3) Where a company has either before or after the passing of this Act deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The re-issue of a debenture or the issue of another debenture in its place under this section, whether made before or after the passing of this Act, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued: Provided that any person lending money on the security of a debenture reissued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.

(5) Nothing in this section shall prejudice—

(a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made before the seventh day of March one thousand nine hundred and seven as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Act had not been passed; or

(b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same.

16. *Specific performance of contract to subscribe for debentures.*] A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.

17. *Inspection of register of mortgages.*] The register of mortgages required by section forty-three of the Companies Act, 1862, shall be open to inspection by any person other than a creditor or member of the company on payment of such fee, not exceeding one shilling for each inspection, as may be fixed by regulations of the company, and that section shall apply accordingly.

18. *Right of debenture holders to inspect the register of debenture holders and to have copies of trust deed.*—(1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles of the company during such period or periods (not exceeding in the whole thirty days in any year) as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of such register or any part thereof on payment of sixpence for every one hundred words required to be copied.

(2) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of one shilling or such less sum as may be prescribed by the company for such copy, or, where the trust deed has not been printed, on payment of sixpence for every one hundred words required to be copied.

(3) If inspection is refused, or a copy is refused or not forwarded, the company shall on conviction be liable to a fine not exceeding five pounds, and to a further fine not exceeding two pounds for every day during which the refusal continues, and every director, manager, secretary, or other officer of the company who knowingly authorises or permits such refusal shall incur the like liability.

#### AUDITORS; BALANCE SHEET; AND REPORTS.

19. *Auditors.*] The following section shall be substituted for section twenty-three of the Companies Act, 1900:—

"(1) Every auditor of the company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

"(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting during their tenure of office, and the report shall state—

"(a) whether or not they have obtained all the information and explanations they have required; and

"(b) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

"(3) The balance sheet shall be signed on behalf of the board by two of the directors of the company or, if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder, who shall be entitled to be furnished with a copy of the balance sheet and auditors' report at a charge not exceeding sixpence for every hundred words.

"(4) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting, and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting: Provided that if, after a notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date fourteen days or less after that notice has been given, the notice, though not given within the time required by this provision, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this provision, be sent or given at the same time as the notice of the general annual meeting.

"(5) If any copy of a balance-sheet which has not been signed as required by this section is issued, circulated, or published, or if any copy of a balance sheet is issued, circulated, or published without either having a copy of the auditor's report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds."

20. *Application to Scotland of s. 25 of 25 & 26 Vict. c. 89 and s. 19 of 63 & 64 Vict. c. 48.*] In the case of companies registered in Scotland the summary mentioned in section twenty-six of the Companies Act, 1862, in addition to the particulars required to be specified by that section and by section nineteen of the Companies Act, 1900, shall also specify the total amount

of debt due from the company in respect of all mortgages and charges, which, if the company had been registered in England, would be required under this Act, to be filed for registration, or would have been required so to be filed if created after the commencement of this Act.

21. *Filing of annual statement of affairs by limited companies.*] Every company required to forward to the registrar a summary under section twenty-six of the Companies Act, 1862, shall include in that summary a statement, made up to such date as may be specified in the statement, in the form of a balance sheet, audited by the company's auditors, and containing a summary of its capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of such liabilities and assets, and as well disclose the general nature of such liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss: Provided that this section shall not apply to any private company.

22. *Report by directors under 63 & 64 Vict. c. 48, s. 12.*—(1) The report which the directors are required by section twelve of the Companies Act, 1900, to forward to every member of the company at least seven days before the date on which the statutory meeting of the company is held shall contain an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company.

(2) A private company shall not be required to forward or to file the report required under section twelve of the Companies Act, 1900.

23. *Rights of preference shareholders, &c., as to receipt and inspection of reports, &c.*—(1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance sheets of the company and the reports of the auditors and other reports as are possessed by the holders of ordinary shares in the company.

(2) This section shall not apply to a private company nor to a company registered before the commencement of this Act.

#### GENERAL MEETINGS, &c.

24. *Annual general meeting.*—(1) The following section shall be substituted for section forty-nine of the Companies Act, 1862:—

"A general meeting of every company shall be held once at least in every calendar year, and not more than fifteen months after the holding of the last preceding general meeting, and, if not so held, the company, and every director, manager, secretary, and other officer of the company who is knowingly a party to the default, shall on conviction be liable to a fine not exceeding fifty pounds."

(2) When default has been made in holding a meeting of the company in accordance with the provisions of this section, the court may on the application of any member of the company call or direct the calling of a general meeting of the company.

(3) Any company which is a member of another company may, by minute of the directors, authorise any of its officials or any other person to act as its representative at any meeting of the latter company, and such representative shall be entitled to exercise the same functions on behalf of the company which he represents as if he had been an individual shareholder.

25. *Poll.*] A poll may be demanded at a meeting of a company at which a special resolution is submitted to be passed or confirmed under section fifty-one of the Companies Act, 1862, if demanded by three persons for the time being entitled according to the articles of

the company to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

#### WINDING UP.

**26. Amendment of law as to voluntary winding up.** [25 & 26 Vict. c. 89.] The liquidator of a company being wound up voluntarily shall, within twenty-one days after his appointment, file with the registrar a notice of his appointment in the prescribed form, and if any liquidator contravenes this provision he shall on conviction be liable to a fine not exceeding five pounds for every day during which the contravention continues.

**27. Rights of creditors in a voluntary winding up.**—(1) Every liquidator appointed by a company in a voluntary winding up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of the company will be held on a date, not being less than fourteen days nor more than twenty-one days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the Gazette and once at least in two local newspapers circulating in the district where the registered office or principal place of business of the company was situate.

(2) At the meeting to be held in pursuance of the foregoing provisions of this section the creditors shall determine whether an application shall be made to the court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the court at any time, not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose at the meeting.

(3) On any such application the court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just, and no appeal shall lie from an order of the court upon such application.

(4) The court shall make such order as to the costs of such application as it may think fit, and if the court should be of opinion that, having regard to the interests of the creditors in the liquidation, there were unreasonable grounds for the application, the court may order the costs of such application to be paid out of the assets of the company, notwithstanding that such application is dismissed or otherwise disposed of adversely to the applicant.

(5) The expression "Gazette" in this section means in the case of a company registered in England the London Gazette, in the case of a company registered in Scotland the Edinburgh Gazette, and in the case of a company registered in Ireland the Dublin Gazette.

**28. Reckoning of contingent liabilities on petition to wind up.** [In determining whether a company is unable to pay its debts within the meaning of section eighty of the Companies Act, 1862, the court shall take into account the contingent and prospective liabilities of the company, and any contingent or prospective creditor shall be a creditor entitled to present a petition for winding up the company under section eighty-two of that Act: Provided that the court shall not give a hearing to a petition for winding up the company by such a creditor until such security for costs has been given as the court thinks reasonable, and until a *prima facie* case for winding up has been established to the satisfaction of the court.

**29. Winding-up order where company has no assets.** [An order to wind up a company shall not be refused on the ground only that the assets

of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

**30. Amendment of 51 & 52 Vict. c. 62 and 52 & 53 Vict. c. 60.]** In the Preferential Payments in Bankruptcy Act, 1888, and the Preferential Payments in Bankruptcy (Ireland) Act, 1889, the date on which the order to wind up was made shall, in the case of a company ordered to be wound up compulsorily, be substituted for the date of the commencement of the winding up of the company:

Provided that this provision shall not apply where the order is made with respect to a company which before the date of the order had commenced to be wound up voluntarily.

**31. Dissolution of companies.**—(1) Where a company has been wound up voluntarily and the return made by the liquidators to the registrar under section one hundred and forty-three of the Companies Act, 1862, has been registered in accordance with that section the court may, on the application of the liquidators or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as to the court seems fit.

(2) Where a company has been dissolved the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidators of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(3) It shall be the duty of the person on whose application any such order was made, within seven days after the making of the order, to file with the registrar an office copy of the order, and if such person fails to do so he shall be liable on conviction to a fine not exceeding five pounds for every day during which the default continues.

#### DIRECTORS.

**32. Power of court to grant relief in certain cases.** [If in any proceeding against a director of a company for negligence or breach of trust it appears to a court that the director is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, the court may relieve him, either wholly or partly, from his liability on such terms as the court may think proper.

**33. Contributions under 53 & 54 Vict. c. 64.]** A person liable to make any payment under the provisions of the Directors' Liability Act, 1890, shall not be entitled to recover contribution from another person under section five of that Act if the person liable to make the payment was, and such other person was not, guilty of fraudulent misrepresentation.

**34. Qualification of director.]** The following provision shall be substituted for sub-section (3) of section three of the Companies Act, 1900:—

"(3) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company he shall be liable on conviction to a fine not exceeding five pounds for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director."

#### REQUIREMENTS AS TO COMPANIES ESTABLISHED OUTSIDE THE UNITED KINGDOM.

**35. Requirements as to companies established outside the United Kingdom.]**—(1) Every company incorporated outside the United Kingdom which at the commencement of this Act has a place of business in the United Kingdom, and every such company which after the commencement of this Act establishes such a place of business within the United Kingdom, shall within three months from the commencement of this Act or within one month from the establishment of such place of business, as the case may be, file with the registrar—

(a) a certified copy of the charter, statutes, or memorandum and articles of association

of the company or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof;

(b) a list of the directors of the company; and  
(c) the names and addresses of some one or more persons resident in the United Kingdom authorised to accept on behalf of the company service of process and any notices required to be served on the company;

and, in the event of any alteration being made in any such instrument or in the directors or in the names or addresses of any such persons as aforesaid, the company shall file with the registrar a notice of the alteration within such time as may be prescribed.

(2) Any process or notice required to be served on the company shall be sufficiently served if addressed to any person whose name has been so filed as aforesaid and left at or sent by post to the address which has been so filed.

(3) Every company to which this section applies shall in every year file with the registrar such a statement of its affairs as would, if it were a company incorporated in the United Kingdom and having a capital divided into shares, be required under this Act to be included in the annual summary.

(4) Every company to which this section applies, and which uses the word "Limited" as part of its name shall—

(a) in every prospectus inviting subscriptions for its shares or debentures in the United Kingdom state the country in which the company is incorporated; and

(b) conspicuously exhibit on every place where it carries on business in the United Kingdom the name of the company and the country in which the company is incorporated; and

(c) have the name of the company and of the country in which the company is incorporated mentioned in legible characters in all bill-heads and letter paper, and in all notices, advertisements, and other official publications of the company.

(5) If any company to which this section applies fails to comply with any of the requirements of this section the company, and every officer or agent of the company, shall on conviction be liable to a fine not exceeding fifty pounds, or, in the case of a continuing offence, five pounds for every day during which the failure continues.

(6) For the purposes of this section the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation, and a share transfer or share registration office shall be deemed to be a place of business within the meaning of this section.

(7) There shall be paid to the registrar for registering any document required by this section to be filed with him a fee of five shillings or such smaller fee as may be prescribed.

#### MISCELLANEOUS.

**36. Validity of debentures to bearer in Scotland.]** Notwithstanding anything contained in the statute of the Scots Parliament of 1696, chapter twenty-five, debentures to bearer issued in Scotland are declared to be valid and binding according to their terms.

**37. Definition of private company.]**—(1) For the purposes of this Act the expression "private company" means a company which by its articles—

(a) restricts the right to transfer its shares; and

(b) limits the number of its members (exclusive of persons who are in the employment of the company) to fifty; and

(c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) A private company may, subject to anything contained in the memorandum or articles of association of the company, by passing a special resolution and by filing with the registrar such a statement in lieu of prospectus as the company, if a public company, would under the provisions of this Act have had to file before allotting any of its shares or debentures, together



with such a statutory declaration as the company, if a public company, would under the provisions of section six of the Companies Act, 1900, have had to file before commencing business, turn itself into a public company.

(3) Where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.

(4) Wherever in the Companies Acts a minimum of seven members is required only two members shall be required in the case of a private company.

38. *Application of 33 & 34 Vict. c. 104, to companies not being wound up.* The Joint Stock Companies Arrangement Act, 1870, shall apply to a company which is not in the course of being wound up, in like manner as it applies to a company which is in the course of being wound up, as if in that Act references to the court having jurisdiction to wind up the company were substituted for references to the court, and references to the liquidator were omitted therefrom, and references to the company were substituted for references to contributories of the company.

39. *Re-organisation of capital.*—(1) A company may by special resolution confirmed by an order of the court modify the conditions contained in its memorandum of association so as to re-organise its capital, whether by the consolidation of shares of different classes, or by the division of its shares into shares of different classes: Provided always that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by a resolution passed by a majority of shareholders of that class representing three-fourths of the capital of that class and confirmed in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of such class.

(2) Where an order is made under this section an office copy thereof shall be filed with the registrar within seven days after making of the order, and the resolution shall not take effect until such a copy has been so filed.

40. *Exemption of life assurance companies from 25 & 26 Vict. c. 89, s. 44.* Section forty-four of the Companies Act, 1862, shall not apply to any life assurance company nor any other assurance company to which the provisions of the Life Assurance Companies Acts, 1870 to 1872 [33 & 34 Vict. c. 61], as to the annual statements to be made by such companies apply, with or without modification, if the company complies with those provisions.

41. *Filing of accounts of receivers and managers.* Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall on ceasing to act as such, and also once in every half year while he remains in possession, file with the registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as such receiver or manager file with the registrar notice to that effect, which notice shall be entered by the registrar on the register of mortgages and charges, and every such receiver or manager who makes default in complying with the provisions of this section within the prescribed time shall be liable to a fine not exceeding fifty pounds.

42. *Revocation of licences under 30 & 31 Vict. c. 131, s. 23.* A licence granted by the Board of Trade under section twenty-three of the Companies Act, 1867 (which relates to associations formed for purposes not of gain), may at any time be revoked by the Board of Trade, and upon revocation the registrar shall enter the word "Limited" at the end of the name of the company upon the register, and the company shall cease to enjoy the exemptions and privileges granted by that section. Before any such licence is revoked under this section the Board of Trade shall give notice in writing of their intention to the company, and shall afford the company an opportunity of being heard in opposition to such revocation.

43. *Interpretation of 46 & 47 Vict. c. 30.*

For removing doubts it is hereby declared that the Commonwealth of Australia is a colony within the meaning of the Companies (Colonial Registrars) Act, 1883.

44. *Construction of s. 56 of 25 & 26 Vict. c. 89.* Section fifty-six, sub-section (2), of the Companies Act, 1862, shall be read and construed as if the words therein "one-fifth part" had been "one-tenth part."

45. *Extraordinary resolutions.* An extraordinary resolution for the purposes of the Companies Act, 1862, and this Act, means a resolution which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution, and section fifty-three of the Companies Act, 1862, shall apply in the case of an extraordinary resolution in like manner as that section applies in the case of a special resolution, with the substitution of a reference to the date of the passing of the extraordinary resolution for the reference to the date of the confirmation of the special resolution.

46. *Signature of documents.* Any writing or licence which under the Companies Acts, 1862 to 1900, is required to be under the hand of one of the principal secretaries or assistant secretaries of the Board of Trade may be under the hand of any person authorised in that behalf by the President of the Board of Trade.

47. *Annual report by Board of Trade.* The Board of Trade shall cause a general annual report of matters within the Companies Acts, 1862 to 1900, and this Act to be prepared and laid before both Houses of Parliament.

48. *Penalty for improper use of word "Limited."* If any person or persons trade or carry on business under any name or title of which "Limited" is the last word, such person or persons shall, unless duly incorporated with limited liability, be liable to a penalty not exceeding five pounds for every day upon which such name or title has been used.

49. *Prosecution of offences under Companies Acts.* All offences under the Companies Acts made punishable by any penalty may be prosecuted under the Summary Jurisdiction Acts.

50. *Miscellaneous amendments of Companies Acts.* The amendments specified in the Third Schedule to this Act, which relate to minor details, shall be made in the Companies Acts.

51. *Repeal.* The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

52. *Short title, construction, and commencement.*—(1) This Act may be cited as the Companies Act, 1907, and the Companies Acts, 1862 to 1900, and this Act may be cited together as the Companies Acts, 1862 to 1907, and are in this Act referred to as the Companies Acts, and this Act shall for all purposes (including its application to Scotland) have effect as part of the Companies Act, 1900.

(2) In this Act the expression "the court" when used in relation to a company shall, unless the context otherwise requires, mean the court having jurisdiction under the Companies Acts, 1862 to 1900, to wind up the company.

(3) The provisions of this Act relating to perpetual debentures and the power of a company to re-issue redeemed debentures in certain cases, shall come into operation on the passing of this Act, and the other provisions of this Act shall come into operation on the first day of July one thousand nine hundred and eight.

## SCHEDULES.

### FIRST SCHEDULE.

[Section 1.]

THE COMPANIES ACTS, 1862 TO 19 .

### STATEMENT IN LIEU OF PROSPECTUS

filed by

LIMITED

pursuant to section of the Companies Act, 1907.

Presented for filing by

43

## THE COMPANIES ACTS, 1862 TO 19 .

LIMITED.

### STATEMENT IN LIEU OF PROSPECTUS.

The nominal capital of the company.	£
Divided into	Shares of £ each.
	" " "
	" " "
Names, descriptions, and addresses of directors or proposed directors.	
Minimum subscription (if any) fixed by the memorandum or articles of association on which the company may proceed to allotment.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash. The consideration for the intended issue of such shares and debentures.	1. shares of £ fully paid. 2. shares upon which £ per share credited as paid. 3. debentures £ 4. Consideration.
Names and addresses of (a) vendors of property purchased or acquired, or proposed to be (b) purchased or acquired by the company.	
Amount (in cash, shares, or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price . £ Cash . £ Shares . £ Debentures £ Goodwill . £
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company, or	Amount paid. " payable.
Rate of such commission .	Rate per cent
Estimated amount of preliminary expenses.	£
Amount paid or intended to be paid to any promoter Consideration for such payment.	Name of promoter. Amount £ Consideration :—
Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than two years before the filing of this statement).	

(a) For definition of vendor, see Section 20 (2) of the Companies Act, 1900, as amended by this Act. (b) See Section 10 (3) of the Companies Act, 1900.

Time and place at which such contracts or copies thereof may be inspected.	Enactment to be Amended.	Nature of Amendment.	Session and Chapter.	Short Title.	Extent of Repeal.
Names and addresses of the auditors of the company (if any).	s. 32 . .	After the word "converted" there shall be inserted the words "or the stock re-converted."			In section ten, sub-section (1) and proviso (b) to sub-section (4).
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.	s. 143 . .	After the words "herein-before mentioned" there shall be inserted the words "or any part thereof." After the word "sixpence" there shall be inserted the words "or such less sum as the company may prescribe." After the words "hundred words" there shall be inserted the words "or fractional part thereof."			In sub-section (2) of section twelve, paragraph (c). Section fourteen. Section twenty-three.
Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports.	Companies Act, 1867 (30 & 31 Vict. c. 131), s. 16.  Companies Act, 1879 (42 & 43 Vict. c. 76), s. 5.  s. 7 . . .	After the word "paid" there shall be inserted the words "or (as the case may be) the reduced amount, if any, which is to be deemed to have been paid."  For the words "in cases where no such increase of nominal capital may be resolved upon" there shall be substituted the words "either in conjunction with or without any such increase of nominal capital."  The whole section except the proviso to sub-section (5) to be repealed.			

## CHAPTER 51.

[*Sheriff Courts (Scotland) Act, 1907.*]

An Act to regulate and amend the Laws and practice relating to the civil procedure in Sheriff Courts in Scotland, and for other purposes.

[28th August 1907.]

## CHAPTER 52.

[*Merchant Shipping Act, 1907.*]

An Act to amend section seventy-eight of the Merchant Shipping Act, 1894, with respect to the deduction of the space occupied by propelling power in ascertaining the tonnage of a ship. [28th August 1907.]

Be it enacted, &amp;c.:

1. *Restriction on deduction for space occupied by propelling power.* The deduction under section seventy-eight of the Merchant Shipping Act, 1894 [57 & 58 Vict. c. 60] (in this Act referred to as "the principal Act"), for the space occupied by the propelling power of a ship shall not in any case exceed fifty-five per cent. of that portion of the tonnage of the ship which remains after deducting from the gross tonnage any deductions allowed under section seventy-nine of the principal Act: Provided that—

(a) This section shall not apply to steam ships constructed for the purpose of towing vessels so long as they are exclusively employed as tugs, but if and when employed for the carriage of passengers, cargoes, or stores, or using graving docks or dry docks or places provided for the repairing of vessels the register tonnage on which dues based on register tonnage may be levied by any harbour or dock authority shall be ascertained in manner provided by the Merchant Shipping Acts, 1894 to 1906, as amended by this Act; and

(b) This section shall not come into operation until the first day of January nineteen hundred and fourteen in the case of the following ships (in this Act referred to as existing ships), namely, ships constructed, or the construction of which has been commenced, before the first day of May nineteen hundred and seven, and ships a contract for the construction of which has been made before the first day of May nineteen hundred and seven, though the construction has not actually commenced before that date.

2. *Saving for authorities having power to charge otherwise than on register tonnage.* Nothing in this Act shall affect any power which any dock or harbour authority have under any Act or Order confirmed by Parliament or having the effect of an Act of Parliament to charge tonnage rates, dues, or charges otherwise than on registered or register tonnage.

3. *Provisions as to ships already registered.*—(1) Where, in ascertaining the tonnage of an existing ship, a deduction has been made for the space occupied by the propelling power of the ship greater than the maximum deduction allowed under this Act, the tonnage of the ship shall, before the date on which this Act

## FOURTH SCHEDULE.

[Section 51.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
25 & 26 Vict. c. 89.	The Companies Act, 1862.	Section forty-nine. In section fifty-one, the words "by at least five members." Section sixty-five. Section one hundred and twenty-nine, from "For the purposes of this Act" to the end of the section.
53 & 54 Vict. c. 63.	The Companies (Winding-up) Act, 1890.	Sub-section (2) of section twenty-nine.
63 & 64 Vict. c. 48.	The Companies Act, 1900.	In sub-section (3) of section two, the words "or to a company which does not issue any invitation to the public to subscribe for its shares." In section three, sub-section (3). In section six, sub-section (4) and sub-section (7) except so far as relates to companies registered before the commencement of this Act.

## SECOND SCHEDULE.

[Section 1.]

MODIFICATIONS OF SECTIONS 2, 6, AND 11.

References to a verified statement in lieu of prospectus and the filling thereof shall be substituted for references to a prospectus and the publication of a prospectus.

In section six the reference to shares offered for public subscription shall be construed as a reference to shares payable in cash.

There shall be added to sub-section (1) of section six the following paragraph:—

"(d) There has been filed with the registrar a statement in lieu of prospectus."

The registrar shall not give such a certificate as is mentioned in sub-section (2) of section six unless a statement in lieu of prospectus has been filed with him.

## THIRD SCHEDULE.

[Section 50.]

## MISCELLANEOUS AMENDMENTS OF COMPANIES ACTS.

Enactment to be Amended.	Nature of Amendment.
Companies Act, 1862 (25 & 26 Vict. c. 89), s. 28.	After the word "stock" there shall be inserted the words "or re-converted stock into shares." After the word "conversion" there shall be inserted the words "or re-conversion."



comes into operation as respects that ship, be recalculated on the basis of allowing the maximum deduction under this Act instead of that previously allowed, and the necessary alteration of the particulars and certificate of the registry of the ship shall be made and shall take effect on that date.

(2) The registrar of every port of registry shall make any alteration in the particulars of the registry of any ship registered at that port, which is required for the purposes of this section, and shall send notice of the alteration so made to the managing owner of the ship.

(3) The managing owner of the ship, on the receipt of any such notice of alteration, shall forthwith transmit the notice to the master of the ship, and the master of the ship on receipt of the notice shall produce it to the registrar of the port at which the ship is when the notice is received, if that port is a port having a registrar, and if not to the registrar of the first port having a registrar at which the ship arrives after the notice is received, and the registrar shall alter the certificate of registry of the ship in accordance with the notice.

(4) If the managing owner or master of a ship fails to comply with the provisions of this section, the managing owner or master, as the case may be, shall be liable on summary conviction, in respect of each offence, to a fine not exceeding fifty pounds.

(5) The expression "managing owner" in this section includes any person registered under section fifty-nine of the principal Act in cases where there is no managing owner.

4. *Short title, construction, and commencement.* This Act may be cited as the Merchant Shipping Act, 1907, and shall be construed as one with the principal Act, and the Merchant Shipping Acts, 1894 to 1906, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1907.

## CHAPTER 53.

[Public Health Acts Amendment Act, 1907.]  
An Act to amend the Public Health Acts.

[28th August 1907.]

Be it enacted, &c.:—

### PART I.

#### GENERAL.

1. *Division of Act into Parts.* This Act is divided into Parts as follows:—

Part I.—General.

- II.—Streets and buildings.
- III.—Sanitary provisions.
- IV.—Infectious diseases.
- V.—Common lodging-houses.
- VI.—Recreation grounds.
- VII.—Police.
- VIII.—Fire brigade.
- IX.—Sky signs.
- X.—Miscellaneous.

2. *Short title, construction, and extent of Act.*—(1) This Act shall be construed as one with the Public Health Acts.

(2) Part I. of this Act shall extend to England and Wales and Ireland exclusive of the administrative County of London, and all or any of the remaining Parts or all or any of the sections thereof shall extend to any district to which all or any of those Parts or sections are applied by an Order of the Local Government Board or of the Secretary of State as the case may be.

(3) This Act may be cited as the Public Health Acts Amendment Act, 1907, and this Act and the Public Health Acts may together be cited as the Public Health Acts, 1875 to 1907.

(4) Any byelaws made under any enactment for which any provisions of this Act are substituted shall remain in force as if the byelaws had been made under the corresponding provisions of this Act.

(5) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

3. *Applications of Parts or section of Act.*—(1) The Local Government Board may, on the application of a local authority, by Order be published in such manner as the Local Government Board direct, declare any Part or any section of this Act to be in force in the district

of the local authority, or, where the local authority are a rural district council, in any contributory place within the district of the local authority, and may declare any enactments in any local Act which appear to the Local Government Board to contain provisions similar to or inconsistent with any such Part or section to be no longer in force in that district or contributory place.

(2) The local authority shall, two weeks at least before applying for an Order, give notice of their intention to make such application by advertising the same once at least in one or more of the newspapers circulating in their district in each of two successive weeks, and no order shall be made under this section until proof of such advertisement has been given to the satisfaction of the Local Government Board, and until at least one month has elapsed after the date of such advertisement.

(3) Any such Order may specify conditions subject to which any Part or any section of this Act shall be in force in the district or contributory place, and where, in the opinion of the Local Government Board, the circumstances so require, any such Order may, in relation to that district or contributory place, declare any Part or any section of this Act to be in force subject to such necessary adaptations as are specified in the Order.

A statement of the effect of each Order specifying conditions or adaptations as aforesaid shall be published in the London Gazette as well as in any other manner directed by the Local Government Board.

(4) In regard to Part VII. (Police), Part VIII. (Fire Brigade), and Part IX. (Sky Signs) of this Act, the Secretary of State shall be deemed to be substituted in this section for the Local Government Board.

4. *Expenses of local authority.* All expenses incurred or payable by a local authority in the execution of this Act and not otherwise provided for may be charged and defrayed in the case of an urban sanitary authority or urban district council, as the case may be, as part of the expenses incurred by them in the execution of the Public Health Acts, and in the case of a rural district council shall, subject to any power of the Local Government Board under any Act to order the contrary, be charged and defrayed as a part of their general expenses under the Public Health Acts.

5. *Enquiries by Local Government Board.*—

(1) The Local Government Board may direct any enquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them under this Act, and the inspectors of the Local Government Board shall for the purposes of any such enquiry have all such powers as they have for the purposes of enquiries directed by that Board under the Public Health Act, 1875.

(2) The local authority shall pay to the Local Government Board any expenses incurred by that Board in relation to any enquiries referred to in this section including the expenses of any witnesses summoned by the inspector holding the enquiry, and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

(3) The Secretary of State may order that a local inquiry be held in regard to the exercise of any powers conferred on him under this Act. The person holding any such inquiry shall receive such remuneration as the Secretary of State may determine, and that remuneration and the expenses of the local inquiry shall be paid by the local authority.

6. *Legal proceedings, &c.* Offences under this Act or under any byelaw made under the powers of this Act or under the powers of the Public Health Act, 1875, or any enactment amending or extending that Act, may be prosecuted, and penalties, forfeitures, costs, and expenses recovered, in like manner and subject to the same provisions as offences which may be prosecuted, and penalties, forfeitures, costs, and expenses which may be recovered, in a summary manner under the Public Health Acts.

7. *Appeals to quarter sessions, &c.*—(1) Except where this Act otherwise expressly provides any person aggrieved—

(a) By any order, judgment, determination, or requirement of a local authority under this Act;

(b) By the withholding of any order, certificate, licence, consent, or approval, which may be made, granted, or given by a local authority under this Act;

(c) By any conviction or order of a court of summary jurisdiction under any provision of this Act;

may appeal, in manner provided by the Summary Jurisdiction Acts, to a court of quarter sessions.

(2) Where any person deems himself aggrieved by the decision of the local authority in any case in which the local authority, under this Act, are empowered to recover in a summary manner any expenses incurred by them, or to declare the expenses to be private improvement expenses, section two hundred and sixty-eight of the Public Health Act, 1875, shall apply as it applies to cases under that Act, and subsection (1) of this section shall not apply in any such case, whether arising under the Public Health Act, 1875, or under this Act; but nothing in this sub-section shall extend to any case in which an appeal to a court of summary jurisdiction in relation to any requirement of a local authority, or to any such expenses, is expressly authorised by this Act.

8. *More than one sum in one summons.* Any information, complaint, warrant or summons made or issued for the purpose of this Act or of the Public Health Acts may contain in the body thereof or in a schedule thereto several sums.

9. *Byelaws.* All the provisions with respect to byelaws contained in section one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, and any enactment amended or extended by those sections shall apply to all byelaws from time to time made by a local authority under the provisions of this Act, provided that the Secretary of State shall be the confirming authority for byelaws made under Part VII. (Police) of this Act.

10. *Compensation, how determined.* Where any compensation, costs, damages, or expenses is or are by this Act directed to be paid, and the method for determining the amount thereof is not otherwise provided for, such amount shall in case of dispute be ascertained in the manner provided by the Public Health Acts.

11. *Powers of Act cumulative.* All powers given to a local authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon such local authority by any Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed.

Nothing in this Act shall exempt any person from any penalty to which he would have been liable if this Act had not been passed, but no person shall be liable, except in the case of a daily penalty, to more than one penalty in respect of the same offence.

12. *Crown rights.* Nothing in this Act affects prejudicially any estate, right, power, privilege, or exception of the Crown, and in particular nothing herein contained authorises any local authority to take, use, or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay, or estuary, or any land, hereditaments, subjects, or right of whatsoever description belonging to His Majesty in right of His Crown, and under the management of the Commissioners of Woods or of the Board of Trade respectively, without the consent in writing of the Commissioners of Woods or the Board of Trade, as the case may be, on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

13. *Interpretation.* In this Act, if not inconsistent with the context,—

The expression "local authority" means an urban sanitary authority, an urban district council, or a rural district council; The expression "district of the local authority" means an urban sanitary district, an urban district, or a rural district;

The expression "daily penalty" means a penalty for each day on which an offence is continued after conviction therefor:

The expressions "lands," "premises," "owner," "street," "house," "drain," and "sewer" have respectively the same meaning as in the Public Health Acts:

The expressions "clerk," "medical officer," "surveyor," and "inspector of nuisances" mean the clerk, medical officer of health, surveyor, and inspector of nuisances respectively of the district of the local authority:

The expression "dairy" includes any farm, farmhouse, cowshed, milk store, milk shop, or other place from which milk is supplied or in which milk is kept for the purposes of sale within (unless otherwise expressed) the district of the local authority:

The expression "dairyman" includes any cowkeeper, purveyor of milk, or occupier of a dairy within (unless otherwise expressed) the district of the local authority:

The expression "infectious disease" means any infectious disease to which the Infectious Diseases (Notification) Act, 1889 [52 & 53 Vict. c. 72], for the time being applies within the district of the local authority:

The expressions "the commencement of this Part" and "the commencement of this section" used in relation to any Part or section of this Act mean respectively the date at which, by an Order made by the Local Government Board, or by the Secretary of State as the case may be, in pursuance of this Act, and subject to any conditions or adaptations specified in that Order, the Part or section is declared to be in force:

Other expressions to which a special meaning is assigned by the Public Health Act, 1875, have respectively the same meaning in this Act as they have in that Act.

14. Application of Act to Ireland.] In the application of this Act to Ireland the following modifications shall have effect:—

(1) This Act may be cited with the Public Health (Ireland) Acts, 1878 to 1900, as the Public Health (Ireland) Acts, 1878 to 1907:

(2) A reference to a place of abode in England shall be construed to be a reference to a place of abode in Ireland:

(3) The Local Government Board for Ireland shall be substituted for the Local Government Board:

(4) The Chief Secretary shall be substituted for the Secretary of State:

(5) The Department of Agriculture and Technical Instruction for Ireland shall be substituted for the Board of Agriculture and Fisheries:

(6) The Dublin Gazette shall be substituted for the London Gazette:

(7) A court of summary jurisdiction constituted in accordance with the provisions of section two hundred and forty-nine of the Public Health (Ireland) Act, 1878 [41 & 42 Vict. c. 52], shall be submitted for a petty sessions court:

(8) The Public Health (Ireland) Acts, 1878 to 1900, shall be substituted for the Public Health Acts, the Public Health (Ireland) Acts, 1878 to 1907, shall be substituted for the Public Health Acts, 1875 to 1907, and the Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875, and in particular references in this Act to the sections of the Public Health Act, 1875, mentioned in the first column of the schedule to this Act shall be construed as references to the corresponding sections of the Public Health (Ireland) Act, 1878, mentioned in the second column of that schedule:

(9) In sub-section (2) of section seventy-four of this Act, the words "and the sanitary authority may" shall be substituted for the words "and the local authority may":

(10) The provision with respect to section twenty-eight of the Town Police Clauses Act, 1847 [10 & 11 Vict. c. 85], shall ex-

tend to section seventy-two of the Towns Improvement (Ireland) Act, 1854 [17 & 18 Vict. c. 105].

## PART II.

### STREETS AND BUILDINGS.

15. Deposit of plan to be of no effect after certain intervals.] The deposit of any plans or sections of any street or building, in pursuance of any byelaw in force in the district, may by notice in writing to the person by whom the plans or sections have been deposited be declared by the local authority to be of no effect if the work to which the plans or sections relate is not commenced—

As to plans and sections deposited before the commencement of this section, within three years from that date;

As to plans and sections deposited on or after the commencement of this section, within three years of the deposit of the plans and sections.

When the deposit of any plans and sections has been declared to be of no effect, a fresh deposit shall be necessary before the work to which they relate is commenced.

The local authority shall give notice of the provisions of this section to every person intending to lay out a new street or erect a new building in relation to which plans and sections have been deposited before the commencement of this section, but the laying out of which street or erection of which building shall not have been commenced, and shall attach a similar notice to the approval of every such intended work in relation to which plans and sections have been deposited subsequent to the commencement of this section.

16. As to plans deposited with local authority.] The local authority may retain any drawings, plans, elevations, sections, specifications, and written particulars, descriptions or details, deposited with and approved by them in pursuance of any enactment for the time being in force in the district or of any byelaw thereunder.

17. Power to vary position or direction and to fix beginning and end of new streets.]—(1)

The local authority may, on the deposit of a plan and sections of a new street in pursuance of a byelaw in force in the district, by order vary the intended position, direction or termination, or level of the new street so far as is necessary for the purpose of securing more direct, easier, or more convenient means of communication with any other street or intended street or for the purpose of securing an adequate opening at either end of the new street, or of securing compliance with any enactment or byelaw in force in the district for the regulation of streets and buildings.

The local authority may also by their order fix the points at which the new street shall be deemed to begin or end, and the limits of the new street as determined by the points so fixed shall have effect for the purposes of the Public Health Acts, 1875 to 1907, and of any byelaws made under those Acts and in force within the district.

(2) The powers of the local authority under this section shall not be exercisable in any case in which it is shown, to their satisfaction, that compliance with their order will entail the purchase of additional lands by the owner of the lands on which the new street is intended to be laid out, or the execution of works elsewhere than on those lands.

(3) Where the local authority make an order under this section a person shall not lay out or construct the new street otherwise than in compliance with the order. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding five pounds, and to a daily penalty not exceeding forty shillings.

(4) The local authority shall pay compensation to any person injuriously affected by the exercise by the local authority of their powers under this section.

18. Crossing for cattle, &c., over footways.] The provision and use of new means of access for any cattle, any beast of draught or burden, any waggon, cart, or other wheeled carriage

exceeding four feet in width or two hundred-weight in weight, to or from any premises fronting, adjoining, or abutting on any street which has become a highway repairable by the inhabitants at large, may, where that provision involves passage across or interference with any such part of the street as comprises a kerbed or paved footway, be allowed by the local authority subject to the following conditions (that is to say):—

(a) Every person who intends to provide the new means of access shall give notice in writing of his intention to the local authority, and shall at the same time submit, for the approval of the local authority, a plan showing the position, gradient, and mode of construction of the intended means of access;

(b) When the plan, with or without amendment, has been approved by the local authority, the person may, upon receiving notice of their approval, proceed to execute the necessary works, but those works shall be executed under the supervision and to the reasonable satisfaction of the local authority, and in accordance with the plan as approved by the local authority;

(c) After the completion of the works the new means of access may be used, subject to the conditions which, in pursuance of any provisions of the law relating to highways, attach to the use for the like purpose of any carriage way forming part of a highway repairable by the inhabitants at large.

19. As to urgent repairs to private streets.]—

(1) Where repairs are required in the case of any street, not being a highway repairable by the inhabitants at large, to obviate or remove danger to any passenger or vehicle in the street, the local authority may give notice in writing to the owners of the lands and premises fronting, adjoining, or abutting on the street, and may require the owners to execute, within a time to be specified in the notice, such repairs as are described in the notice.

(2) If, within the time specified in the notice, the repairs described in the notice are not executed, the local authority may execute the repairs, and may recover summarily, as a civil debt, the cost of the repairs so executed from the owners in default, and the amount recoverable from each owner shall be in the proportion which the extent of his lands and premises fronting, adjoining, or abutting on the street, bears to the total extent of all lands and premises so fronting, adjoining, or abutting.

(3) Where the name or place of abode of an owner cannot be found by the local authority, a copy of the notice shall be sent by post to or left with the occupier of the lands and premises to which the notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of the lands and premises.

(4) In every case in which, within the time specified in the notice, the majority in number or rateable value of owners of lands and premises in the street, by a notice in writing, require the local authority to proceed, in relation to the street, under section one hundred and fifty of the Public Health Act, 1875, or, if the Private Street Works Act, 1892 [55 & 56 Vict. c. 57], is in force in the district, under that Act, the local authority shall so proceed; and where the local authority so proceed they shall, on the completion of the necessary works, forthwith declare the street to be a highway repairable by the inhabitants at large, and on and after the date of the declaration the street shall become a highway so repairable.

20. Recovery of damages caused to footways by excavations.] If the footway of any street repairable by the inhabitants at large be injured by or in consequence of any excavations or other works on lands adjoining thereto the local authority may repair or replace the footway so injured, and all damages and expenses of or arising from such injury and repair or replacement shall be paid to the local authority by the owner of the lands on which such excavations or other works have been made, or by the person causing or responsible for the injury.



**21. Power to alter names of streets.]** The local authority may, with the consent of two-thirds in number and value of the ratepayers in any street, alter the name of such street or any part of such street. The local authority may cause the name of any street or of any part of any street to be painted or otherwise marked on a conspicuous part of any building or other erection.

Any person who shall wilfully and without the consent of the local authority, obliterate, deface, obscure, remove, or alter any such name, shall be liable to a penalty not exceeding forty shillings.

**22. Buildings at corner of streets.]** The local authority may require the corner of any building intended to be erected at the corner of two streets to be rounded off or played off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine and for any loss which may be sustained through the exercise of the powers by this section conferred upon the local authority they shall pay compensation.

**23. What to be deemed new buildings.]** For the purposes of this Act and the Public Health Acts, and any byelaws made thereunder, each of the following operations, namely:—

- (a) The re-erection, wholly or partially, of any building of which an outer wall is pulled down or burnt down to within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far pulled down or burnt down as to leave only the framework of the lowest storey;
- (b) The conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only;
- (c) The re-conversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house;
- (d) The making of any addition to an existing building by raising any part of the roof, by altering a wall, or making any projection from the building, but so far as regards the addition only; and
- (e) The roofing or covering over of an open space between walls or buildings;

shall be deemed to be the erection of a new building.

**24. Byelaws as to height of chimneys, &c.]** Section one hundred and fifty-seven of the Public Health Act, 1875, shall be extended so as to empower the local authority to make byelaws—

- with respect to the height of chimneys of buildings and with respect to the height of buildings; and
- with respect to the structure of chimney shafts for the furnaces of steam engines, breweries, distilleries, or manufactories.

Section one hundred and fifty-eight of the Public Health Act, 1875, shall also be in force in every district in which this section is in force.

**25. Yards to be paved, &c.]** If any yard in connection with, and exclusively belonging to, a dwelling-house shall not be so formed, flagged, asphalted, or paved, or shall not be provided with such works on, above, or below the surface of the yard, as to allow of the effectual drainage of the subsoil or surface of the yard by safe and suitable means to a proper outfall, the local authority may, by notice in writing, require the owner of the dwelling-house, within twenty-one days after the service of the notice, to execute all such works as are necessary for the effectual drainage of the subsoil or surface of the yard to a proper outfall.

If, within the said period of twenty-one days, the owner has failed to complete the execution of the works specified in the notice, the local authority may execute the works, and may recover from the owner in a summary manner as a civil debt the expenses incurred by the local authority in the execution of the works.

**26. Entrances to courts, &c., not to be closed.]** After the commencement of this section the entrances to any court shall not, except with the consent of the local authority, be closed or

narrowed or otherwise altered or affected by any permanent structure so as to impede the free circulation of air, and the height of any such entrance shall not, except with that consent, be lowered. The consent of the local authority under this section may be given subject to compliance with such conditions as the local authority by their consent prescribe with respect to the formation or provision of any other sufficient opening or means of access, or with respect to the provision of other sufficient means of securing free circulation of air throughout the court.

Nothing in this section shall have effect in relation to any court which by reason of its situation, use, architectural features, or other characteristics is, either wholly or in part, necessary for or ancillary to the ornament or amenity of any lands or premises.

Any person offending against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

**27. As to temporary buildings.]**—(1) Before any person erects or sets up a temporary building he shall apply to the local authority for permission so to do.

The application shall be accompanied by a plan and sections of the proposed building drawn to a scale of not less than one inch to every eight feet, and a block plan, drawn to a convenient scale, showing the intended situation and surroundings of the proposed building, together with a specification describing the materials proposed to be used in the construction of the building, and the purpose for which the building is intended.

(2) The local authority shall, within one month after the delivery of the plans and sections and specification, signify in writing their approval or disapproval of the building to the person proposing to erect or set up the building.

(3) The local authority may attach to their approval any condition which they deem proper with regard to the sanitary arrangements of the building, the ingress thereto and the egress therefrom, protection against fire, and the period during which the building shall be allowed to stand.

(4) If any such building is begun, erected, or set up without such application accompanied by such plan, sections, and specification as this section requires, or after the disapproval of the local authority or before the expiration of one month without their approval, or is in any respect not in conformity with any condition attached by the local authority to their approval, the person who began, erected, or set up the building, or, if any such building is not removed within the period allowed by the local authority, the owner of the building shall for every such offence be liable to a penalty not exceeding forty shillings, and to a daily penalty not exceeding the like amount; and the local authority may cause the building to be pulled down or removed, and any expense incurred by them in and about the pulling down or removal of the building may, at their discretion, be recovered summarily as a civil debt from the owner of the building or from the person erecting or setting up the building.

(5) Where any such building is pulled down or removed by the local authority under the powers of this section the local authority may sell the materials or any part of the materials, and shall apply the proceeds of the sale in or towards payment of the costs and expenses incurred by them in relation to the pulling down or removal of the building, and shall pay the balance to the owner of the building.

(6) The following buildings shall be exempt from the operation of this section:—

- (a) Any building expressly exempt from the operation of the Public Health Acts or the byelaws made under those Acts and in force for the time being within the district;
- (b) Any building erected or set up for the purpose of protecting or of preventing the acquisition of rights to light;
- (c) Any temporary building set up as part of the plant to be used in or about or in connection with the construction, alteration, or repair of any building or other

work; but so far as regards only so much of this section as relates to plans, sections, and specifications.

**28. Removal of materials in streets.]** The local authority may remove, appropriate, use, and dispose of all old materials existing in any street at the time of the execution by the local authority or any works in such street unless the owners of buildings and lands in such street within forty-eight hours after notice so to do served on them by the surveyor remove such materials or their respective proportions thereof, and the local authority shall allow such sum as may be the reasonable value thereof to such owners for any materials which have been used or removed by the local authority, and in case of dispute the amount to be allowed shall be settled in the manner provided by the Public Health Act, 1875, with respect to compensation for damage sustained by reason of the exercise of any powers of that Act.

**29. Deposit of building materials or excavations not to be made without consent.]** It shall not be lawful for any person without the consent of the local authority in writing first obtained to lay any building materials, rubbish, or other thing, or make any excavation on or in any street repairable by the inhabitants at large, and when with such consent any person lays any building materials, rubbish, or other thing, or makes any excavation on or in any street, he shall, at his own expense, cause the same to be sufficiently fenced and a sufficient light to be fixed in a proper place on or near the same and to be continued every night from sunset to sunrise, and shall remove such materials, rubbish, or thing or fill up such excavation (as the case may be) when required by the local authority; and if any person fails to comply in any respect with the requirements of this enactment, he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and the local authority may remove any such materials, rubbish, or thing, or fill up such excavation (as the case may be), and recover the expenses from the offender summarily as a civil debt.

**30. Dangerous places to be repaired or enclosed.]** With respect to the repairing or enclosing of dangerous places the following provisions shall have effect (namely):—

- (1) If in any situation fronting, adjoining, or abutting on any street or public footpath, any building, wall, fence, steps, structure or other thing, or any well, excavation, reservoir, pond, stream, dam or bank is, for want of sufficient repair, protection, or enclosure, dangerous to the persons lawfully using the street or footpath, the local authority may by notice in writing served upon the owner, require him, within the period specified in the notice and hereinafter in this section referred to as the "prescribed period," to repair, remove, protect, or enclose the same so as to prevent any danger therefrom;

- (2) If, after service of the notice on the owner, he shall neglect to comply with the requirements thereof within the prescribed period, the local authority may cause such works as they think proper to be done for effecting such repair, removal, protection, or enclosure, and the expenses thereof shall be payable by the owner, and may be recovered summarily as a civil debt.

**31. Fencing lands adjoining streets.]** If any land (other than land forming part of any common) adjoining any street is allowed to remain unfenced or if the fences of any such land are allowed to be or remain out of repair, and such land is, owing to the absence or inadequate repair of any such fence, a source of danger to passengers, or is used for any immoral or indecent purposes, or for any purpose causing inconvenience or annoyance to the public, the Local Government Board on the application of the local authority may by Order empower the local authority to proceed under this section, and, in that case, at any time after the expiration of fourteen days from the service upon the owner or occupier of notice in writing by the local authority requiring the land to be fenced or any fence of the land to be repaired, the

local authority may cause the land to be fenced or may cause the fences to be repaired in such manner as they think fit, and the reasonable expenses thereby incurred shall be recoverable from such owner or occupier summarily as a civil debt.

**32. Hoards to be securely erected.**—(1) A person shall not use any hoarding or similar structure which is in, or abuts on, or adjoins any street, for any purpose, unless it is securely fixed to the satisfaction of the local authority.

(2) If any person acts in contravention of this section he shall be liable, in respect of each offence, to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

**33. Exemption of buildings of railway companies and others.**—Nothing in this Part or in any byelaws to be made under any enactment extended by this Part shall apply to a building (other than a dwelling-house) belonging to a railway company, or to any company or other public body authorised to construct, maintain, or improve a harbour, pier, or dock, or to the owners of any canal or inland navigation, and used by the company, public body, or owners as a part of or in connection with their railway, harbour, pier, dock, canal or inland navigation.

#### PART III. SANITARY PROVISIONS.

**34. Extension of s. 41 of 38 & 39 Vict. c. 55.**—Section forty-one of the Public Health Act, 1875, shall have effect as if for the words "(but not otherwise)" there were substituted the words "or where on the report in writing of their surveyor or inspector of nuisances the local authority have reason to suspect that any such drain, water-closet, earth-closet, privy, ashpit, or cess-pool is a nuisance or injurious to health."

**35. As to nuisances.**—For the purposes of the Public Health Act, 1875—

- (1) Any cistern used for the supply of water for domestic purposes so placed, constructed, or kept as to render the water therein liable to contamination, causing or likely to cause risk to health;
- (2) Any gutter, drain, shoot, stack-pipe, or down-spout of a building which by reason of its insufficiency or its defective condition shall cause damp in such building or in an adjoining building; and
- (3) Any deposit of material in or on any building or land which shall cause damp in such building or in an adjoining building so as to be dangerous or injurious to health;

shall be deemed to be a nuisance within the meaning of the said Act.

**36. Rain-water pipes not to be used as soil pipes.**—No pipe used for the carrying off of rain-water from any roof shall be used for the purpose of carrying off the soil or drainage from any privy or water closet. Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

**37. Water or stack pipes not to be used as ventilating shafts.**—No water-pipe, stack-pipe, or down-spout in existence at the commencement of this section, used for conveying surface water from any premises, shall be used or be permitted to serve or to act as a ventilating shaft to any drain. Any person who shall offend against this section after fourteen days from the service upon him by the local authority of notice of such offence shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

**38. Local authority may require old drains to be laid open for examination by surveyor before communicating with sewers.**—Before any drain existing at the commencement of this section and then not communicating with any sewer of the local authority shall be made to communicate with any sewer of the local authority, the local authority may require the same to be laid open for examination by the surveyor, and no such communication shall be made until the surveyor shall certify that such drain may be properly made to communicate with such sewer.

**39. Provision and conversion of closet accommodation.**—(1) In this section unless the context otherwise requires—

The expression "closet accommodation" includes a receptacle for human excreta, together with the structure comprising such receptacle and the fittings and apparatus connected therewith;

The expression "pail closet" means closet accommodation including a moveable receptacle for human excreta;

The expression "water-closet" means closet accommodation used or adapted or intended to be used in connection with the water carriage system, and comprising provision for the flushing of the receptacle by means of a fresh water supply, and having proper communication with a sewer;

The expression "slop-closet" means closet accommodation used or adapted or intended to be used in connection with the water carriage system, and comprising provision for the flushing of the receptacle by means of slops or waste liquids of the household or rain water, and having proper communication with a sewer;

The expression "a sufficient water supply and sewer" means a water supply and a sewer which are sufficient and reasonably available for use in, or in connection with, the efficient flushing and cleansing of, and the efficient removal of excreta from such number of proper and sufficient water-closets and slop-closets, or from such one or more of either class of closet as, in pursuance of this section, may be required to be provided in any particular case.

(2) Within one month after the deposit of any plan by a person intending to erect a new building, the local authority, where there are a sufficient water supply and sewer, may by written notice to that person require the new building to be provided with such number of proper and sufficient water-closets and slop-closets, or with such one or more of either class of closet as the circumstances of the case may render necessary.

Any person who fails to comply with any requirement of the local authority under this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) If, on the report of the medical officer or the surveyor or the inspector of nuisances, the local authority are satisfied that sufficient closet accommodation has not been provided at or in connection with a building and the case is not one in which sufficient closet accommodation can be provided by the alteration of any existing closet accommodation in pursuance of this section, the local authority, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of the building require the building to be provided with such number of proper and sufficient water-closets and slop-closets, or with such one or more of either class of closet as the circumstances of the case may render necessary.

If the owner or owners of the building fail to comply with any requirement of the local authority under this sub-section, the local authority may at the expiration of a time which shall be specified in the notice and shall be not less than fourteen days after the service of the notice, do the work required by the notice, and may recover summarily as a civil debt from the owner or owners the expenses incurred by the local authority in so doing.

(4) The local authority, where there are a sufficient water supply and sewer, may by written notice to the owner or owners of a building require any existing closet accommodation (other than a water-closet or a slop-closet) provided at or in connection with the building to be altered, so as to be converted into a water-closet or slop-closet.

If the owner or owners of the building fail to comply with any requirement of the local authority under this sub-section, the local authority may, at the expiration of a time which shall be specified in the notice and shall not be less than fourteen days after the service of the notice, do the work required by the notice.

Where in pursuance of this sub-section any work or alteration is done by the local authority in default of the owner or owners in respect of a pail closet, the expenses of the work shall be borne by the local authority, and where in pur-

suance of this sub-section any work of alteration is done by the local authority in default of the owner or owners in respect of any existing closet accommodation other than a pail closet, one half of the expenses of the work shall be borne by the local authority, and the remainder of the said expenses shall be borne by the owner or owners and shall be recoverable summarily as a civil debt.

Every notice in pursuance of this sub-section shall state the effect of the sub-section.

(5) Nothing in this section shall have effect with respect to a slop-closet, unless or until the Local Government Board have been satisfied by the local authority, and have by order declared that the circumstances of the district of the local authority are such as to render it necessary or expedient that this section shall have effect with respect to a slop-closet.

Any order in pursuance of this sub-section shall be published in such manner as the Local Government Board direct.

**40. Payment for works of common benefit.**—

(1) Where under section thirty-nine of this Act the local authority do any work for the common benefit of two or more buildings belonging to different owners, the expenses which under that section are recoverable by the local authority from the owners shall be paid by the owners of those buildings in such proportions as shall be determined by the surveyor, or in case of dispute by a petty sessions court.

(2) *Expenses.*—Any moneys expended by the local authority for the purposes of section thirty-nine of this Act shall, so far as they are not recoverable from the owner or owners, be part of the expenses of the local authority in the execution of the Public Health Act, 1875.

(3) *Private improvement expenses.*—The local authority may by order declare any expenses incurred by them under section thirty-nine of this Act, which are recoverable summarily as a civil debt from the owner or owners, to be expenses to which the provisions of section two hundred and fifty-seven of the Public Health Act, 1875, shall apply, and thereupon those provisions shall apply, with the necessary modifications, as if they were herein re-enacted and in terms made applicable to the said expenses.

**41. Entry on premises.**—Any person duly authorised in writing by the local authority shall, on production of his authorisation, be admitted into any premises for the purposes of section thirty-nine of this Act, and the provisions of sections one hundred and two and one hundred and three of the Public Health Act, 1875, shall, with the necessary modifications, apply to his admission.

**42. Appeals.**—(1) Where any person deems himself aggrieved by any requirement of the local authority under section thirty-nine of this Act, or objects to the reasonableness of any expenses wholly or partially recoverable from him under that section, that person may, within fourteen days after the service of notice of the requirement or of a demand for payment of the expenses, appeal to a court of summary jurisdiction, and the court may make such order in the matter as to them may seem equitable, and the order so made shall be binding and conclusive on all parties:

Provided nevertheless that the right of appeal, subsequent to the service of a demand for payment, shall be restricted to the ground of the reasonableness of the amount of the expenses, and the appellant shall be precluded from raising at that stage any other question.

(2) Pending the decision of the court upon the appeal the local authority shall not be empowered to execute any works to which the notice relates, and any proceeding which may have been commenced for the recovery of the expenses shall be stayed.

**43. Local authority may require removal or alteration of urinals.**—(1) If any urinal or other sanitary convenience opening on any street (whether erected before or after the commencement of this section) is so placed or constructed as to be a nuisance or offensive to public decency, the local authority, by notice in writing, may require the owner to remove it within a reasonable time fixed by the local authority.

(2) If the owner fails to comply with the notice, he shall be liable to a penalty not ex-



ceeding twenty shillings and to a daily penalty not exceeding ten shillings.

44. *Urinals to be attached to refreshment houses, &c.*—(1) Where any inn, public-house, beer-house, eating-house, refreshment-house, or place of public entertainment, whether built before or after the commencement of this section, has no urinal belonging or attached thereto, the local authority may, by notice in writing, require the owner of the premises to provide and maintain thereon one or more proper and sufficient urinals in a suitable position.

(2) If the owner fails within a reasonable time to comply with a notice under this section he shall be liable in respect of each offence to a penalty not exceeding twenty shillings and to a daily penalty not exceeding ten shillings.

45. *Testing of drains on report of defects.*—(1) If the medical officer, surveyor, or inspector of nuisances reports to the local authority that he has reasonable grounds for believing that any drains of any building are so defective as to be injurious or dangerous to health, the local authority may authorise their medical officer, surveyor, or inspector of nuisances to apply the smoke or coloured water test, or other similar test (not including a test by water under pressure), to the drains, subject to the condition that either the consent of the owner or occupier of the building must be given to the application of the test, or an order of a court of summary jurisdiction having jurisdiction in the place where the building is situated must be obtained, authorising the application of the test.

(2) If on the application of the test the drains are found to be defective, the local authority may, by notice specifying generally the defect, require the owner of the premises to do all works necessary for remedying it within a reasonable time named in the notice, and if the owner fails so to do the work the local authority may themselves do the work, and the expense of so doing the work may either be recovered from the owner of the building summarily as a civil debt or may be declared by the local authority to be private improvement expenses, and may be recoverable accordingly.

(3) The owner and occupier of any building shall give all reasonable facilities for the application of any test which has been consented to or authorised in pursuance of this section, and, if the owner or occupier fails to do so, he shall be liable in respect of each offence to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

46. *Provision for filling up cesspools, &c.*—If it shall appear to the local authority by the report of the medical officer, surveyor, or inspector of nuisances that any cesspool or other receptacle used or formerly used as a receptacle for excreta or other obnoxious matter, or for the whole or any part of the drainage of a house, or that any ashpit or any well or disused well belonging to any such house or part of a house is prejudicial to health, or otherwise objectionable for sanitary reasons, and that it is desirable that the same should be filled up or removed, or so altered as to remove any such objection as aforesaid, the local authority may, if they think fit, by notice in writing, require the owner or occupier of such house or part of a house within a reasonable time, to be specified in the notice, to cause such cesspool, receptacle, ashpit, or well to be filled up or removed, and any drain communicating therewith to be effectually disconnected, destroyed, or taken away, or to cause such cesspool, receptacle, ashpit, or well to be so altered as to remove any such objection as aforesaid.

Where it appears that any such cesspool, receptacle, ashpit, or well is used in common by the occupiers of two or more houses, or parts of houses, the notice for filling up or removal of any such cesspool, receptacle, ashpit, or well may be served on any one or more of the owners or occupiers of such houses, and it shall not be necessary to serve such notice on all such owners or occupiers.

If default is made in complying with the requisitions of a notice under this section the local authority may themselves carry out the requisitions, and may recover the expenses incurred by them in so doing from the owners or occupiers in default in a summary manner as a civil debt, or, where the owners are the persons

liable, as private improvement expenses are recoverable under the Public Health Act.

47. *Public conveniences and lavatories.*—The local authority may provide and maintain in proper and convenient situations sanitary conveniences in or under any street repairable by the inhabitants at large, and may provide and maintain in proper and convenient situations lavatories in or under any such street for the use of the public, and may employ and pay attendants and make reasonable charges for the use of any sanitary conveniences (other than a urinal) or of any lavatory so provided. The local authority may make byelaws for the management of the sanitary conveniences and lavatories, and as to the conduct of persons frequenting the same.

The local authority may let any such sanitary conveniences, and any such lavatories for such periods, at such rents, and subject to such conditions as to the charges to be made for the use thereof and otherwise, as they think proper.

48. *Removal of trade refuse.*—If the local authority are required by the owner or occupier of any premises to remove any trade refuse (other than sludge), the local authority shall do so, and the owner or occupier shall pay to them for doing so a reasonable sum, to be settled in case of dispute by order of a court of summary jurisdiction; and if any question arises in any case as to what is to be considered as trade refuse, that question may be decided on the complaint of either party by a court of summary jurisdiction, whose decision shall be final.

49. *Summary power to provide sinks and drains for buildings.*—In addition to all other powers vested in a local authority, the local authority, if it shall appear to them on the report of the surveyor, medical officer, or inspector of nuisances, that any building built before or after the commencement of this section of this Act is not provided with a proper sink or drain or other necessary appliances for carrying off refuse water from such building, may give notice in writing to the owner or occupier of such building requiring him in the manner and within the time to be specified in such notice, not being less than twenty-eight days, to provide such sink, drain, or other appliances. If the owner or occupier makes default in complying with such requirement to the satisfaction of the local authority within the time specified in such notice he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and in case of default the local authority may, if they think fit, themselves provide such sink, drain, or other appliances, and the expenses incurred by them in so doing shall be repaid to them by such owner or occupier, and may be recovered summarily as a civil debt.

50. *Local authority may provide an ambulance.*—The local authority may provide and maintain an ambulance for use in any case of accident, or other sudden or urgent disability, together with suitable attendants, and means of traction, and other requisites; and may allow the ambulance to be used by any other local authority or person subject to such terms and conditions as may be agreed upon.

51. *Power to declare a business to be an offensive business.*—(1) The words "any other trade, business, or manufacture, which the local authority declare by order confirmed by the Local Government Board, and published in such manner as the Board direct, to be an offensive trade," shall be substituted for the words "any other noxious or offensive trade, business, or manufacture," in section one hundred and twelve of the Public Health Act, 1875.

(2) The local authority may make byelaws with respect to any trade which is an offensive trade under section one hundred and twelve of the Public Health Act, 1875, as amended by this Act, whether established before or after the commencement of this Act, in order to prevent or diminish any noxious or injurious effects of the trade.

#### PART IV.

##### INFECTIOUS DISEASES.

52. *Infected person not to carry on occupation.*—(1) If any person knows that he is suffering from an infectious disease, he shall not engage in any occupation or carry on any trade or

business unless he can do so without risk of spreading the infectious disease.

(2) If any person acts in contravention of this section, he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

53. *Power to require dairymen to furnish list of sources of supply.*—(1) If the medical officer certifies to the local authority that any person in the district is suffering from infectious disease which the medical officer has reason to suspect is attributable to milk supplied within the district, the local authority may require the dairyman supplying the milk to furnish to the medical officer within a reasonable time fixed by them a complete list of all the farms, dairies, or places from which his supply of milk is derived or has been derived during the last six weeks, and, if the supply, or any part of it, is obtained through any other dairyman, may make a similar requisition upon that dairyman.

(2) The local authority shall pay to the dairyman for every list furnished by him under this section the sum of sixpence, and, if the list contains not less than twenty-five names, a further sum of sixpence for every twenty-five names contained in the list.

(3) Every dairyman shall comply with the requisition of the local authority under this section, and, if he fails to do so, shall be liable in respect of each offence to a penalty not exceeding five pounds and a daily penalty not exceeding forty shillings.

54. *Dairymen to notify infectious diseases existing among their servants.*—(1) Every dairyman supplying milk within the district of the local authority from premises whether within or beyond the district aforesaid shall notify to the medical officer all cases of infectious disease among persons engaged in or in connection with his dairy as soon as he becomes aware or has reason to suspect that such infectious disease exists.

(2) Any dairyman who shall fail to comply with this section shall for every such offence be liable to a penalty not exceeding forty shillings.

55. *Infected clothes not to be sent to laundry.*—(1) A person shall not take or send to any public washhouse or to any laundry, for the purpose of being washed, any bedding, clothes, or other things which he knows to have been exposed to infection from any infectious disease, unless they have been disinfected by or to the satisfaction of the local authority or their medical officer, or of a legally qualified medical practitioner, or are sent to a laundry with proper precautions for the purpose of disinfection, with notice that they have been exposed to infection.

(2) If any person acts in contravention of the foregoing provision of this section he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

(3) The local authority may, on the application of any person, pay the expenses of the disinfection of any such bedding, clothes, or other things, if carried out by them or under their direction.

56. *Filthy and dangerous articles to be purified.*—Where the local authority on the certificate of the medical officer are satisfied that the cleansing, purification, or destruction of any article in a dwelling-house is, by reason of the filthy condition of the article, necessary to prevent injury or to remove or obviate risk of injury to the health of any person in the dwelling-house, the local authority may cause the article to be cleaned, purified, or destroyed at their expense.

Where a person sustains damage in consequence of the exercise by the local authority of their powers under this section, and the condition of the article with respect to which those powers have been exercised is not attributable to his act or default, the local authority shall make reasonable compensation to that person.

57. *Child suffering from infectious disease not to attend school.*—(1) No person being the parent or having the care or charge of a child within the district of the local authority who is or has been suffering from infectious disease or has been exposed to infection shall, after a notice from the medical officer that the child is not to be sent to school, permit such child to attend school without having procured from the

medical officer a certificate (which shall be granted free of charge upon application) that in his opinion such child may attend without undue risk of communicating such disease to others.

(2) Any person who shall offend against this section shall for every such offence be liable to a penalty not exceeding forty shillings.

**59. List of scholars to be furnished where scholar in a school is suffering from an infectious disease.**—(1) The principal of a school in which any scholar is suffering from an infectious disease shall, if required by the local authority, furnish to them within a reasonable time fixed by them a complete list of the names and addresses of the scholars in or attending at the school or any specified department thereof other than boarders.

(2) The local authority of the district shall pay to the principal of the school for every list furnished by him under this section the sum of sixpence, and, if the list contains not less than twenty-five names, a further sum of sixpence for every twenty-five names contained in the list.

(3) If the principal of a school fails to comply with any of the provisions of this section he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

(4) In this section the expression "the principal" used in relation to a school means the person in charge of the school, and includes, where the school is divided into departments and there is no single person at the head of the whole school, as respects each department the head of that department.

**59. Provisions as to library books.**—(1) If any person knows that he is suffering from an infectious disease he shall not take any book or use or cause any book to be taken for his use from any public or circulating library.

(2) A person shall not permit any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from an infectious disease.

(3) A person shall not return to any public or circulating library any book which he knows to have been exposed to infection from any infectious disease, or permit any such book which is under his control to be so returned, but shall give notice to the local authority that the book has been so exposed to infection, and the local authority shall cause the book to be disinfected and returned to the library, or to be destroyed.

(4) The local authority shall pay to the proprietor of the library from which the book is procured the value of any book destroyed under the power given by this section.

(5) If any person acts in contravention of or fails to comply with this section, he shall be liable in respect of each offence to a penalty not exceeding forty shillings.

**60. Local authority may pay expenses of person in hospital.**—Nothing in section one hundred and thirty-two of the Public Health Act, 1875, with respect to the recovery of the cost of maintenance in a hospital shall require the local authority to recover the cost of maintenance from a patient who is not a pauper where the local authority have satisfied themselves that the circumstances of the case are such as to justify the remission of the debt.

**61. Removal of person from infected premises.**

—(1) The local authority may exercise the powers of section fifteen of the Infectious Disease (Prevention) Act, 1890, whether that section has or has not been adopted in the district, and, where the local authority so determine, those powers may be exercised for providing temporary shelter or house accommodation with any necessary attendants for any person who, in any case to which this section applies, leaves a house after any infectious disease has appeared therein, and the local authority may borrow, subject to the provisions of the Public Health Acts, for the purpose of providing shelter or house accommodation under section fifteen of the Infectious Disease (Prevention) Act, 1890, or under this section.

Where the local authority in pursuance of the aforesaid powers have provided a temporary shelter or house accommodation, they may, on the appearance of any infectious disease in a house, and on the certificate of the medical officer, cause any person who is not himself sick

and who consents to leave the house, or whose parent or guardian (where the person is a child) consents to his leaving the house, to be removed therefrom to any such temporary shelter or house accommodation, and in the like case on the like certificate may cause any such person who does not consent to leave the house to be removed therefrom to any such temporary shelter or house accommodation, where two justices, on the application of the local authority and on being satisfied of the necessity of the removal, make an order for the removal, subject to such conditions (if any) as are imposed by the order.

The local authority shall in every case cause the removal to be effected and the conditions of any order to be satisfied without charge to the person removed or to the parent or guardian of that person.

(2) Any person who wilfully disobeys or obstructs the execution of an order under this section, shall be liable to a penalty not exceeding five pounds.

(3) For the purpose of this section the word "house" includes any tent, van, shed, or similar structure used for human habitation or any boat lying in any canal or other water within the district of the local authority and used for the like purpose.

**62. Amendment of s. 126 of 38 & 39 Vict. c. 55.** Paragraph two of section one hundred and twenty-six of the Public Health Act, 1875 (which imposes a penalty on the exposure of infected persons and things), shall be read as if the words "or causes or permits such sufferer to be so exposed" were added after the word "sufferer."

**63. Prohibiting conveyance of infected persons in public vehicles.** The owner or driver of a public vehicle within the district of the local authority used for the carrying of passengers at separate fares shall not knowingly convey or any other person shall not knowingly place in any such public vehicle a person suffering from any infectious disease, or a person suffering from any such disease shall not enter any such vehicle, and every person who shall offend against this section shall for every such offence be liable to a penalty not exceeding forty shillings.

**64. Driver, &c., of infected person to give notice.**—(1) If any person suffering from any infectious disease is conveyed in any public vehicle within the district of the local authority the owner or driver thereof as soon as it comes to his knowledge shall give notice to the medical officer, and shall cause such vehicle to be disinfected, and, if he fails so to do, he shall be liable to a penalty not exceeding five pounds, and the owner or driver of such vehicle shall be entitled to recover in a summary manner from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him in connection with such disinfection.

(2) It shall be the duty of the local authority when so requested by the owner or driver of such public vehicle to provide for the disinfection of the same free of charge, except in cases where the owner or driver conveyed a person knowing that he was suffering from infectious disease.

**65. Section 124 of 38 & 39 Vict. c. 55, to apply to persons who cannot be isolated.** Section one hundred and twenty-four of the Public Health Act, 1875, shall extend and apply to all cases of persons suffering from any dangerous infectious disease, and being in or upon any house or premises where such persons cannot be effectually isolated so as to prevent the spread of the disease.

**66. Cleansing and disinfecting of premises, &c.**—(1) If the medical officer, or any other legally qualified medical practitioner certifies that the cleansing and disinfecting of any house, or part of a house, and of any articles therein likely to retain infection, or the destruction of those articles which tend to prevent or check any dangerous infectious disease the local authority shall serve notice on the master, or, where the house or part is unoccupied, on the owner of the house or part, that the house or part, and any such articles therein, will be cleansed and disinfected or (as regards the articles) destroyed, by the local authority unless he informs the local

authority within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part and any such articles, or destroy the articles to the satisfaction of the medical officer or of any other legally qualified medical practitioner within a time fixed in the notice.

(2) If either—

(a) Within twenty-four hours from the receipt of the notice the person on whom the notice is served does not inform the local authority as aforesaid; or

(b) Having so informed the local authority, he fails to have the house or part thereof and any such articles disinfected, or the articles destroyed as aforesaid, within the time fixed in the notice; or

(c) The master or owner without any such notice gives his consent;

the house or part and articles shall be cleansed and disinfected, or the articles destroyed by the officers and at the cost of the local authority under the superintendence of the medical officer.

(3) For the purpose of carrying into effect this section the local authority may enter by day on any premises.

(4) When the local authority have disinfected any house, part of a house, or article, under the provisions of this section, they shall compensate the master or owner of the house, or part of a house, or the owner of the article, for any unnecessary damage thereby caused to the house, part of a house, or article; and when the local authority destroy any article under this section they shall compensate the owner thereof, and the amount of any such compensation shall be recoverable in a summary manner.

(5) The expression "master" means the person in occupation of or having the charge, management, or control of the house or part of a house, and where the house is wholly let out in separate tenements, or is a lodging-house wholly let to lodgers, includes the person receiving the rent payable by the tenants or lodgers either on his own account, or as the agent of another person; and the expression "by day" means during the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

**67. Provision of nursing attendance by local authority.**—(1) The local authority may provide nurses for attending on patients suffering from any infectious disease in their district who, owing to want of accommodation at the hospital, or danger of infection, cannot be removed to the hospital, or in cases where removal to the hospital is likely to endanger the patients' health.

(2) The local authority may charge such reasonable sums for the services of nurses provided by them as they think fit.

(3) Nothing in this section shall be deemed to take away or diminish the necessity of providing proper hospital accommodation for persons suffering from infectious disease.

**68. Wake not to be held over body of person dying of infectious disease.** It shall not be lawful to hold a wake over the body of any person who has died of infectious disease, and the occupier of any house or premises or part of a house or premises who permits or suffers any such wake to take place in such house or premises, or part of a house or premises, and every person who attends to take part in such wake shall be liable to a penalty not exceeding forty shillings.

#### PART V.

##### COMMON LODGING-HOUSES.

**69. Discretion as to registration of lodging-house keeper.** 38 & 39 Vict. c. 55.—(1) The local authority may, at their discretion, refuse to register any person as a common lodging-house keeper, unless they are satisfied of his character and of his fitness for the position.

(2) The registration of a person as a common lodging-house keeper shall, if that person is newly registered after the commencement of this section, remain in force only for such time not exceeding one year as may be fixed by the local authority, but may be renewed from time to time by the local authority.

**70. Obligation on common lodging-house keeper to provide for proper control of his house.**—(1) Either the keeper of a common lodging-house or a deputy registered under this Act



shall manage and control the lodging-house and exercise supervision over those using it, and either the keeper or the deputy so registered shall be and remain at the lodging-house between the hours of nine in the evening and six in the morning of the following day.

(3) If any provision of this section is not complied with in the case of any common lodging-house, the keeper of the house shall, unless he shows to the court that there was a reasonable excuse for the non-compliance, be liable in respect of each offence to a penalty not exceeding forty shillings, and to a daily penalty not exceeding twenty shillings.

**71. Deputy lodging-house keepers.]—**(1) The local authority shall keep a register for the purposes of this section, and shall enter therein the name of any person whose name is submitted to them by a common lodging-house keeper as his deputy, and who is approved by them for the purpose.

(2) The local authority may register more than one deputy for any common lodging-house keeper.

(3) The local authority, if at any time they are of opinion that any person registered as a deputy of a common lodging-house keeper is not a fit person for the purpose, may cancel the registration.

**72. Power of court convicting common lodging-house keeper to cancel registration.]** Where the keeper of a common lodging-house is convicted of any offence against any provision of the Public Health Act or this Act relating to common lodging-houses or of any byelaws made thereunder, the court before whom he is convicted may cancel his registration as a common lodging-house keeper, and he shall cease to be registered accordingly.

**73. Unregistered lodging-house keepers liable to penalties under section 86 of 38 & 39 Vict. c. 55.]** If a person keeps a common lodging-house he shall, although he is not registered as a common lodging-house keeper under section seventy-seven of the Public Health Act, 1875, be liable to the penalties imposed under section eighty-six of that Act for the offences named therein.

**74. Provision of proper sanitary conveniences in a common lodging-house.]—**(1) Every common lodging-house, whether registered before or after the commencement of this section, shall be provided—

(a) With sufficient and suitable sanitary conveniences, having regard to the number of persons who may be received in that house, and also, where persons of both sexes are received in the common lodging-house, with proper separate accommodation for persons of each sex; and

(b) With a water supply laid on sufficient for flushing any water-closets or urinals which are used in the house.

(2) If it appears to the local authority that, in the case of any common lodging-house, default is made in any respect in complying with the provisions of this section, the local authority, may, by notice in writing specifying the default, require the keeper of the common lodging-house to remedy the default.

(3) If within twenty-eight days of the notice being served the default is not remedied to the satisfaction of the local authority, they may themselves do the work required to be done, and may recover in a summary manner from the keeper of the common lodging-house the expenses incurred by them in so doing, or may by order declare these expenses to be private improvement expenses.

**75. Notice of commencement of Part V. and repeal.]—**(1) At a time not less than one month before the commencement of this Part of this Act the local authority shall give notice of the fact to the keeper of every common lodging-house in their district.

(2) On and after the commencement of this Part of this Act section seventy-eight from the words "and the local authority may" to the end of the section, and section eighty-eight of the Public Health Act, 1875, shall be repealed as far as relates to the district.

#### PART VI.

##### RECREATION GROUNDS.

**76. Powers as to parks and pleasure gardens.]—**(1) The Local Government Board, for the pur-

poses of this section, may make rules prescribing restrictions or conditions subject to which any powers conferred by the section shall with respect to any area in a public park or pleasure ground be exercisable in relation to the enclosure or setting apart of the area or in relation to the use of the area as the site of a building or convenience.

Subject to the restrictions or conditions prescribed by rules made under this section, the local authority shall, in addition to any powers under any general Act, have the following powers with respect to any public park or pleasure ground provided by them or under their management and control, namely, powers—

(a) To enclose during time of frost any part of the park or ground for the purpose of protecting ice for skating, and charge admission to the part enclosed, but only on condition that at least three-quarters of the ice available for the purpose of skating is open to the use of the public free of charge;

(b) To set apart any such part of the park or ground as may be fixed by the local authority, and may be described in a notice board affixed or set up in some conspicuous position in the park or ground for the purpose of cricket, football, or any other game or recreation, and to exclude the public from the part set apart while it is in actual use for that purpose;

(c) To provide any apparatus for games and recreations, and charge for the use thereof, or let the right of providing any such apparatus for any term not exceeding three years to any person;

(d) To provide or contribute towards the expenses of any band of music to perform in the park or ground;

(e) To enclose any part of the park or ground, not exceeding one acre, for the convenience of persons listening to any band of music, and charge admission thereto;

(f) To place, or authorise any person to place, chairs or seats in any such park or ground, and charge for, or authorise any person to charge for, the use of the chairs so provided;

(g) To provide and maintain any reading rooms, pavilions, or other buildings and conveniences, and to charge for admission thereto, subject in the case of reading rooms to the limitation that such a charge shall not be made on more than twelve days in any one year, nor on more than four consecutive days;

(h) To let any pavilion or other building so provided by them to any person for the purpose of entertainments, and authorise that person to charge for admission thereto;

(i) To provide and maintain refreshment rooms in any such park, and either manage them themselves, or, if they think fit, let them to any person for any term not exceeding three years.

(2) Any expenses of the local authority incurred in the exercise of the powers given to them by this section shall be defrayed out of the fund or rate out of which the expenses of the park or ground as to which the powers are exercised are payable, and any receipts arising from the exercise of any such powers shall be carried to the credit of the same fund or rate.

(3) The expenses incurred by the council in the exercise of their power under this section to provide or contribute to a band shall not in any one year exceed an amount equal to that which would be produced by a rate of an amount which shall be approved by the Local Government Board and shall not exceed a penny on the property liable to be assessed for the purpose of the rate out of which the expenses of the park or ground are payable, as assessed for the time being for the purposes of that rate.

(4) No power given by this section shall be exercised in such a manner as to contravene any covenant or condition subject to which a gift or lease of a public park or pleasure ground has been accepted or made, without the consent of the donor, grantor, lessor, or other person or

persons entitled in law to the benefit of such covenant or condition.

**77. Power to appoint officers.]** The local authority may appoint officers for securing the observance of this Part of this Act, and of the regulations and byelaws made thereunder, and may procure such officers to be sworn in as constables for that purpose, but any such officer shall not act as a constable unless in uniform or provided with a warrant.

#### PART VII.

##### POLICE.

**78. Regulations as to street traffic.]** The local authority may from time to time make regulations with respect to such streets, to be specified in the regulations, as are specially liable to be obstructed by reason of the amount and nature of the traffic—

(a) Prescribing the line to be kept at any street crossing by all persons riding or driving;

(b) Requiring the drivers of heavy and slow-moving vehicles to keep their vehicles to a particular portion of the street.

All regulations under this section shall be subject to the approval of the Secretary of State.

Any person who shall contravene any such regulation after warning given by word or signal by a police constable stationed in the street to direct the traffic shall be liable to a penalty not exceeding forty shillings.

**79. Dangerous riding and driving.]** Every person who shall ride or drive so as to endanger the life or limb of any person or to the common danger of the passengers in any thoroughfare shall be liable to a penalty not exceeding forty shillings and may be arrested without warrant by any constable who witnesses the offence.

**80. As to leading or driving animals.]** The local authority may, by order, prescribe the streets in which, and the manner according to which, the leading or driving of animals shall be permitted within their district, provided that the route or routes which it shall be lawful for the local authority so to prescribe shall not be such as would prevent the passage of cattle between any market on the one hand, and any railway station or landing wharf in the district, or any place beyond the district, on the other hand, when such animals are merely passing between such market and railway station, landing wharf, or other place aforesaid, and the local authority shall be bound to allow at all times a reasonably short and efficient route or routes for the passage of such animals. Provided also that any such order shall only operate between the hours of nine in the morning and nine in the evening, and shall not prevent the owner of any animal driving the same to or from his own premises, and nothing in this enactment contained shall authorise the local authority to interfere with the leading or driving of any animals to any duly licensed slaughter-house.

**81. Extending definition of public place and street for certain purposes.]** Any place of public resort or recreation ground belonging to, or under the control of the local authority, and any unfenced ground adjoining or abutting upon any street in an urban district shall for the purposes of the Vagrancy Act, 1824 [5 Geo. 4, c. 83], and of any Act for the time being in force altering or amending the same, be deemed to be an open and public place, and shall be deemed to be a street for the purposes of section twenty-nine of the Town Police Clauses Act, 1847 [10 & 11 Vict. c. 69], and also for the purposes of so much of section twenty-eight of that Act as relates to the following offences—

Every person who suffers to be at large any unmuzzled ferocious dog, or urges any dog or other animal to attack, worry, or put in fear any person or animal:

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle:

Every common prostitute or night walker loitering and importuning passengers for the purpose of prostitution:

Every person who wilfully and indecently exposes his person:

Every person who publicly offers for sale or distribution, or exhibits to public view, any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language:

Every person who wantonly discharges any firearm or discharges any missile or makes any bonfire:

Every person who throws or lays any dirt, litter, ashes, or night soil, or any carrion, fish, offal, or rubbish, on any street.

**82. Byelaws as to sea-shore.]** The local authority, for the prevention of danger, obstruction, or annoyance to persons using the sea-shore may make and enforce byelaws to—

(1) Regulate the erection or placing on the sea-shore, or on such part or parts thereof as may be prescribed by such byelaws, of any booths, tents, sheds, stands, and stalls (whether fixed or movable), or vehicles for the sale or exposure of any article or thing, or any shows, exhibitions, performances, swings, roundabouts, or other erections, vans, photographic carts, or other vehicles, whether drawn or propelled by animals, persons or any mechanical power, and the playing of any games on the seashore, and generally regulate the user of the seashore for such purposes as shall be prescribed by such byelaws;

(2) Regulate the user of the seashore for riding and driving;

(3) Regulate the selling and hawking of any article, commodity, or thing on the sea-shore;

(4) Provide for the preservation of order and good conduct among persons using the seashore. Provided that no byelaws affecting the foreshore below high-water mark shall come into operation until the consent of the Board of Trade has been obtained.

**83. Byelaws as to promenades.]** The local authority may, for the prevention of danger, obstruction, or annoyance to persons using the esplanades or promenades within the district, make byelaws prescribing the nature of the traffic for which they may be used, regulating the selling and hawking of any article, commodity, or thing thereon, and for the preservation of order and good conduct among the persons using the same.

**84. Licences to porters.]—**(1) The local authority may from time to time grant to any person whom they think fit a licence to carry on the calling of a luggage porter, light porter, public messenger, or commissionaire, and may charge a fee of one shilling for any such licence.

(2) The local authority may from time to time make byelaws for regulating the conduct of any persons so licensed and for fixing the charges to be made by them.

(3) Every such licence may be granted for a year or for any less period according as the local authority may think fit, and may be suspended or revoked or endorsed by the local authority for a breach of such byelaws or whenever they shall deem such suspension or revocation or endorsement to be necessary or desirable in the interests of the public: Provided that the existence of this power to suspend or revoke or endorse a licence shall be plainly set forth in the licence itself.

(4) Every such licence whensoever issued shall expire on the thirty-first day of March next following the date of its issue, and may contain conditions as to the badge which the holder of any such licence shall wear.

(5) If any person while unlicensed represents himself to be licensed, or wears any badge for the purpose of representing himself as licensed to carry on any of the callings specified in this section, he shall be liable to a penalty not exceeding twenty shillings.

**85. Registries for servants.]—**(1) Every person who shall carry on for the purpose of private gain the trade or business of keeper of a female domestic servants' registry shall register his name and place of abode, and also the premises in which such trade or business is carried

on, in a book to be kept at the offices of the local authority for the purpose.

(2) The local authority may make byelaws prescribing the books to be kept and the entries to be made therein, and any other matter which the local authority may deem necessary for the prevention of fraud or immorality in the conduct of such trade or business and for regulating any premises used for the purposes of or in connection with such trade or business.

(3) The person registered shall keep a copy of the byelaws made by the local authority under this section hung up in a conspicuous place in the registered premises.

(4) Any officer of the local authority or other person duly authorised in writing in that behalf by the local authority, and if so required exhibiting his authority, shall at all reasonable times be afforded by the person registered full and free power of entry into the registered premises for the purpose of inspecting the registered premises and the books required to be kept by such person.

(5) Any person carrying on such trade or business as aforesaid whose name, place of abode, and premises in which such trade or business is carried on have not been registered in accordance with sub-section one of this section, or whose registration has been cancelled or suspended as herein-after provided, or acting in contravention of any of the provisions of this section or of any byelaw made thereunder, shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and the court may (in lieu of or in addition to imposing a penalty) order the suspension or cancellation of the registration.

(6) The local authority shall give public notice of the provisions of this section by advertisement in two newspapers circulating in the district, and by handbills and otherwise in such manner as they think sufficient.

**86. As to dealers in old metal and marine stores.]—**(1) Every person who shall carry on business as a dealer in old metal or as a marine store dealer shall register his name and place of abode and every place of business, warehouse, store, and place of deposit occupied or used by him for the purpose of such business, in a book to be kept for the purpose at the offices of the local authority.

(2) Every person carrying on business as aforesaid shall correctly enter in a book to be kept by him for that purpose the description and price of all articles purchased or otherwise acquired by him, and the name, address, and occupation of the person from whom the same were purchased or otherwise acquired.

(3) Every person who shall carry on such business without having so registered or without keeping such book and making such entries as required by this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(4) Any officer of the local authority or other person duly authorised in writing in that behalf by the local authority, and if so required exhibiting his authority, shall have free access at all reasonable times to every such place of business, warehouse, store, and place of deposit, to inspect the same and the books by this section required to be kept, and every person who shall prevent, hinder, or obstruct any officer or person so authorised in the execution of his duty under this sub-section shall be liable to a penalty not exceeding five pounds.

(5) The local authority shall give public notice of the provisions of this section by advertisement in two newspapers circulating in the district, and by handbills and otherwise in such manner as they think sufficient.

#### PART VIII. FIRE BRIGADE.

**87. Power to police constable to enter and break open premises in case of fire.]** Any police constable acting under the orders of his superior officer, and any member of the fire brigade of the local authority being on duty, and any officer of the local authority, may enter and if necessary break into any building in the district being or reasonably supposed to be on fire, or any building or land adjoining or near thereto, without the consent of the owner or occupier thereof respectively, and may do all such

acts and things as they may deem necessary for extinguishing fire in any such building or for protecting the same or rescuing any person or property therein from fire.

**88. Power to police officer to control street traffic at fires.]** The officer in charge of the police at any fire in the district shall have power to stop or regulate the traffic in any street whenever in his opinion it is necessary or desirable to stop or regulate such traffic for the purpose of extinguishing the fire or for the safety or protection of life or property, and any person who wilfully disobeys any order given by such officer in pursuance of this section shall be liable to a penalty not exceeding five pounds.

**89. Captain of fire brigade or other officer to have control of operations.]** The captain or superintendent of the fire brigade of the local authority or other officer of such fire brigade for the time being in charge of the engine or other apparatus for extinguishing fires attending at any fire within the district shall from the time of his arrival and during his presence thereat have the sole charge and control of all operations for the putting out of such fire, whether by the fire brigade of the local authority or any other fire brigade, including the fixing of the positions of fire engines and apparatus, the attaching of hose to any water pipes or water supply, and the selection of the parts of the building on fire or of adjoining buildings against which the water is to be directed.

**90. Agreements with local authorities for common use of fire appliances.]** The local authority of the district and the local authority of any borough or urban or rural district or the parish council of any parish may enter into and carry into effect agreements for the common use of any fire engines with their appurtenances and firemen or for mutual assistance in case of fire.

#### PART IX. SKY SIGNS.

**91. Sky signs.]—**(1) (a) It shall not be lawful to erect or fix to, upon, or in connection with any building or erection any sky sign, and it shall not be lawful to retain any existing sky sign so erected or fixed for a longer period than three years after the commencement of this section, nor during that period except with the licence of the local authority, and in the event of such licence being granted then only for such period not exceeding three years from the commencement of this section and under and subject to such terms and conditions as shall be therein prescribed.

(b) Provided that in any of the following cases a licence of the local authority under this sub-section shall become void (namely):—

(i) If any addition to any sky sign be made except for the purpose of making it secure under the direction of the surveyor;

(ii) If any change be made in the sky sign or any part thereof;

(iii) If the sky sign or any part thereof fall either through accident, decay, or any other cause;

(iv) If any addition or alteration be made to or in the house, building, or structure on, over, or to which any sky sign is placed or attached if such addition or alteration involves the disturbance of the sky sign or any part thereof; or

(v) If the house, building, or structure over, on, or to which the sky sign is placed or attached become unoccupied or be demolished or destroyed.

(c) Provided also that if any sky sign be erected or retained contrary to the provisions of this Act, or after the licence for the erection, maintenance, or retention thereof for any period shall have expired or become void, it shall be lawful for the local authority to take proceedings for the taking down and removal of the sky sign in the same manner and with the same consequence as to recovery of expenses and otherwise in all respects as if it were an obstruction within the meaning of section sixty-nine (Future projections of houses, &c., to be removed on notice) of the Towns Improvement Clauses Act, 1847 [10 & 11 Vict. c. 34].

(2) Any person acting in contravention of any of the provisions of this section, or of the terms



and conditions (if any) of any approval, licence, or consent under this section, shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) For the purposes of this section—

"Sky sign" means—

Any word, letter, model, sign, device, or representation in the nature of an advertisement, announcement, or direction supported on or attached to any post, pole, standard, frame-work, or other support wholly or in part upon, over, or above any house, building or structure which or any part of which sky sign shall be visible against the sky from some point in any street or public way, and includes all and every part of any such post, pole, standard, frame-work, or other support;

The expression "sky sign" shall also include—

Any balloon, parachute, or other similar device employed wholly or in part for the purposes of any advertisement or announcement on, over, or above any house, building, structure, or erection of any kind, or on or over any street or public way;

But shall not include—

(a) Any flagstaff, pole, vane, or weathercock unless adapted or used wholly or in part for the purpose of any advertisement or announcement;

(b) Any sign or any board, frame, or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof: Provided that such board, frame, or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall or parapet or ridge to, against, or on which it is fixed or supported;

(c) Any word, letter, model, sign, device, or representation as aforesaid relating exclusively to the business of a railway or canal company, and placed wholly upon or over any railway, canal, railway station, wharf, quay, yard, platform, or station or wharf or quay approach belonging to a railway or canal company, and so placed that it cannot fall into any street or public place.

#### PART X. MISCELLANEOUS.

92. *Bathing places.*] The local authority—

(a) may make byelaws with regard to any public bathing, whether from bathing machines or not, for any of the purposes mentioned in section sixty-nine of the Town Police Clauses Act, 1847, and also for the purpose of regulating the hours of bathing and enforcing the provision and maintenance of any life-saving apparatus or other means of protecting bathers from danger by persons providing accommodation for public bathing; and

(b) may, if they think fit, provide and maintain on or at any place within their district which abuts on the sea or any river, bathing-sheds or other conveniences with all necessary appliances, and may charge for the use thereof.

93. *Provision of life-saving appliances.*] The local authority of any district may provide and maintain life-saving appliances at any place in their district where they think those appliances are likely to be of use.

94. *Power to licence pleasure boats.*—(1) The local authority may grant upon such terms and conditions as they may think fit licences for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire, and to the boatmen or persons assisting in the charge or navigation of such boats and vessels, and may charge annual fees for such licences, for a boat or vessel a fee not exceeding the sum of five shillings, and for a boatman or other person a fee not exceeding the sum of one shilling.

(2) Any such licence may be granted for such

period as the local authority may think fit; and may be suspended or revoked by the local authority whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public: Provided that the existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(3) No person shall let for hire any pleasure boat or pleasure vessel not so licensed or at any time during the suspension of the licence for the boat or vessel, nor shall any person carry or permit to be carried passengers for hire in any pleasure boat or vessel not so licensed or at any time during the suspension of the licence for the boat or vessel.

(4) A licence under this section shall not be required for any boat or vessel duly licensed by or under any regulations of the Board of Trade.

(5) No person shall carry or permit to be carried in any pleasure boat or pleasure vessel a greater number of passengers for hire than shall be specified in the licence applying to such boat or vessel, and every owner of any such boat or vessel shall, before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than one inch in height and three-quarters of an inch in breadth, on a conspicuous part of the said boat or vessel, his own name and also the number of persons which it is licensed to carry, in the form "Licensed to carry persons."

(6) Every person who shall act in contravention of the provisions of this section shall for each offence be liable to a penalty not exceeding forty shillings.

(7) Any person deeming himself aggrieved by the withholding, suspension, or revocation of any licence under the provisions of this section may appeal to a petty sessions court held after the expiration of two clear days after such withholding, suspension, or revocation: Provided that the person so aggrieved shall give twenty-four hours' written notice of such appeal, and the ground thereof, to the clerk, and the court shall have power to make such order as they see fit and to award costs, such costs to be recoverable summarily as a civil debt.

95. *Extension and amendment of s. 175 and s. 176 of 38 & 39 Vict. c. 55.*] The powers of a local authority under sections one hundred and seventy-five and one hundred and seventy-six of the Public Health Act, 1875, shall extend to highway purposes, and notwithstanding anything in section one hundred and seventy-five of the Public Health Act, 1875, or any general provision in any local Act, any lands acquired by a local authority and not required for the purposes for which those lands have been acquired may be appropriated for any purpose approved by the Local Government Board, subject, nevertheless, to any special covenant or condition affecting the use of the lands attached thereto at the time of the purchase by the local authority, or to any special provision affecting the use of the lands contained in any local Act: Provided that the local authority shall not, on any lands so appropriated, create or permit any nuisance; and that the local authority shall not, on any such lands, sink any well for the public supply of water, or construct any cemetery, burial ground, destructor, station for generating electricity, sewage farm, or hospital for infectious disease, unless after local inquiry and consideration of any objections made by persons affected, the Local Government Board, subject to such conditions as they think fit, authorise the work or construction.

Nothing in this section shall affect any rights acquired before the commencement of this section under any judgment or order of a court of competent jurisdiction, or under any agreement in writing, but if a dispute, one of the parties to which is a local authority, arises under such an agreement as to any such right, the dispute shall, if either party so require, be settled by the Local Government Board as if it were a doubt or difference within the meaning of section three hundred and four of the Public Health Act, 1875, and the Local Government Board may for that purpose deal by Order with any matters which may be dealt with by

an Order or Provisional Order under the said section.

#### SCHEDULE.

(Section 13.)

REFERENCES TO THE PUBLIC HEALTH (IRELAND) ACT, 1878, TO BE SUBSTITUTED FOR REFERENCES TO THE PUBLIC HEALTH ACT, 1875.

Sections of the Public Health Act, 1875.	Corresponding Sections of Public Health (Ireland) Act, 1878.
Forty-one . . .	Fifty-one.
Seventy-seven . . .	Eighty-eight.
Seventy-eight . . .	Eighty-nine.
Eighty-six . . .	Ninety-seven.
Eighty-eight . . .	Ninety-nine.
One hundred and two . . .	One hundred and eighteen.
One hundred and three . . .	One hundred and nineteen.
One hundred and twelve . . .	One hundred and twenty-eight.
One hundred and twenty-four . . .	One hundred and forty-one.
One hundred and twenty-six . . .	One hundred and forty-two.
One hundred and thirty-two . . .	One hundred and fifty-six.
One hundred and fifty . . .	Twenty-eight.
One hundred and fifty-seven . . .	Forty-one.
One hundred and fifty-eight . . .	Forty-two.
One hundred and seventy-five . . .	Two hundred and two.
One hundred and seventy-six . . .	Two hundred and three.
One hundred and eighty-two . . .	Two hundred and nine.
One hundred and eighty-six . . .	Two hundred and twenty-three.
Two hundred and fifty-seven . . .	Two hundred and fifty-five.
Two hundred and sixty-eight . . .	Two hundred and sixty-eight.
Three hundred and four . . .	Two hundred and seventy-seven.

#### CHAPTER 54.

[Small Holdings and Allotments Act, 1907.]

An Act to amend the Law with respect to Small Holdings and Allotments.

[28th August 1907.]

Be it enacted, &c.:

#### PART I.

##### SMALL HOLDINGS.

*Schemes as to the Provision of Small Holdings.*

1. *Appointment of Small Holdings Commissioners.*—(1) With a view to extending the provision of small holdings, the Board of Agriculture and Fisheries (hereinafter referred to as "the Board") shall appoint two or more persons possessed of a knowledge of agriculture to be Small Holdings Commissioners (hereinafter referred to as the Commissioners), and may appoint such other officers for the purposes of this Act as the Board may, with the consent of the Treasury, determine.

(2) There shall be paid out of money provided by Parliament to the Commissioners and officers so appointed such salaries or remuneration as the Treasury may from time to time determine; and all expenses incurred by those Commissioners and officers in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall (except as otherwise expressly provided by this Act) be defrayed out of money provided by Parliament.

2. *Inquiries and reports by Commissioners.*

—(1) The Commissioners, acting under the directions of the Board, shall ascertain the extent to which there is a demand for small holdings in the several counties or would be a demand if suitable land were available, and the extent to which it is reasonably practicable, having regard to the provisions of the Small Holdings Act, 1892 [55 & 56 Vict. c. 31], as amended by this Act, to satisfy any such demand, and for that purpose shall confer with the county councils any

co-operate with such other authorities, associations, and persons as they think best qualified to assist them, and take such other steps as they think necessary.

(2) The county council of any county, borough, district, or parish may make representations to the Commissioners in respect of any such matters as aforesaid, and it shall be the duty of every council to furnish the Commissioners with such information, and to give them such other assistance, as they may reasonably require for the purposes of this section.

(3) The Commissioners shall report the information acquired by them respecting any county to the Board, and shall state whether it is desirable, in the opinion of the Commissioners, that such a scheme as is herein-after mentioned should be made, and may indicate the nature of the proposals which the Commissioners consider ought to be embodied in the scheme.

(4) If in the course of their inquiries the Commissioners receive any information as to the existence of a demand for allotments they shall communicate the information to the councils of the county, and of the borough, urban district, or parish concerned.

3. *Preparation of draft schemes.*—(1) Where the Board, after considering the report and such representations as aforesaid as respects any county, are of opinion that it is desirable that a scheme should be made, the Board shall forward the report of the Commissioners with such modifications or observations (if any) as the Board think desirable to the county council, and it shall be the duty of the county council to prepare one or more draft schemes to give effect to the report with such modifications (if any) as aforesaid, or subject to such other modifications as the Board may make after considering any representations submitted to them by the county council, and in preparing the drafts the council shall have regard to the proposals (if any) of the Commissioners indicated in the report.

(2) If the county council decline to undertake this duty, or within six months after receiving the report or within such extended time as may be allowed by the Board, fail to prepare such one or more draft schemes as appear to the Board desirable, the Board may direct the Commissioners to prepare one or more draft schemes.

(3) A county council, if they think fit may, without receiving any such report as aforesaid, prepare one or more draft schemes for the provision of small holdings for their county.

(4) A draft scheme under this section may specify—

- the localities in which land is to be acquired for small holdings;
- the approximate quantity of land to be acquired, and the number, nature, and size of the small holdings to be provided, in each locality;
- whether, and to what extent, grazing or other similar rights, to be defined in the scheme, should be attached to the small holdings created in pursuance of the scheme, and, if so, the approximate quantity of land or extent and nature of the rights to be acquired for the purpose;
- the time within which the scheme or any part thereof is to be carried into effect;

and the scheme may contain such incidental, consequential, or supplemental provisions (including provisions as to the subsequent variation of the scheme) as may appear necessary or proper for the purposes of the scheme.

(5) Where the Commissioners report or the county councils concerned are of opinion that a scheme should be made affecting two or more counties, the scheme may be prepared by the councils jointly, and may provide for joint action being taken by the councils.

4. *Procedure as to schemes.*—(1) A copy of any draft scheme under this Act shall, if prepared by a county council be sent to the Board, and if prepared by the Commissioners be sent to the Board and to any county council concerned, and the draft scheme and any modifications therein which the Board may propose to make shall be published and advertised together with notice of the time within and manner in which objections are to be sent to the Board in such manner as the Board think best adapted for informing the persons affected and for insuring publicity.

(2) The Board shall consider the draft scheme and any objections thereto duly made, and may in any case and shall, if the county council object to the scheme, or, in the case of a scheme prepared by the council, to any modifications therein which the Board propose to make, hold a public local inquiry, at which the county council, and such other persons as the person holding the inquiry may in his discretion think fit to allow, shall be permitted to appear and be heard.

(3) The Board, after considering the objections and the report of the person holding the inquiry (if any), may settle and confirm the scheme either without modification or subject to such modifications as the Board think fit, or may annul the scheme.

5. *Duty of councils to carry schemes into effect.*—(1) It shall be the duty of a county council on which obligations are imposed by a scheme to carry them into effect within such time as may be specified in the scheme, or within such further time as may be allowed by the Board, and for that purpose the council may exercise any of the powers conferred on them by the Small Holdings Act, 1892, or by this Act.

(2) If the county council fail so to fulfil their obligations, the Board shall by order direct the Commissioners to take such steps as may be necessary for carrying the scheme into effect, and upon such order being made the Commissioners shall for the purpose have all the powers of a county council in relation to small holdings under the Small Holdings Act, 1892, and this Act, and those Acts shall apply as if references to the Commissioners were substituted for references to a county council.

Provided that such expenses of the Commissioners as the Board certify to have been incurred by the Commissioners in the exercise of such powers in relation to any scheme and to be properly payable by the county council shall on demand be repaid to the Board by the county council in default out of the county fund, or, in the case of a county borough, out of the borough fund or borough rate, and shall be recoverable as a debt due to the Crown, and such sums as the Board certify to have been received by the Commissioners in respect of any land acquired shall be paid to the council.

(3) Any order made by the Board directing the Commissioners to carry a scheme into effect shall be laid before both Houses of Parliament as soon as may be after it is made.

(4) If it appears to the Board that the carrying out of a scheme under this Act has resulted or is likely to result in a loss, the Board may, with the consent of the Treasury, pay or undertake to pay out of the Small Holdings Account the whole or any part of that loss.

*Amendments of the Small Holdings Act, 1892.*

6. *Acquisition of land for small holdings to be let to tenants.*—(1) A county council may, for the purpose of providing small holdings for persons who desire to lease and will themselves cultivate the holdings, purchase land, whether situate within or without their county, by agreement, under and in accordance with the provisions of the Small Holdings Act, 1892, or take land on lease.

(2) If a county council are unable to acquire by agreement and on reasonable terms suitable land for the purpose aforesaid, they may acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.

7. *Letting of land acquired for small holdings.* Land acquired by a county council for the purposes of small holdings may be adapted for letting and let for small holdings under and in accordance with the provisions of the Small Holdings Act, 1892, as amended by this Act, and those provisions shall apply accordingly.

8. *Explanation of s. 18 (2) of Act of 1892.* It is hereby declared that for the purposes of sub-section (2) of section eighteen of the Small Holdings Act, 1892, the expression "charge" means the net charge on the county rate calculated in accordance with regulations made by the Local Government Board after taking into account all receipts from or on account of small holdings or otherwise under the Small Holdings Act, 1892, or this Act.

9. *Power to let small holdings to associations.* In addition to the power under section four of

the Small Holdings Act, 1892, of letting one or more small holdings to persons working on a co-operative system, a county council shall have power, with the consent of the Board, to let one or more holdings to any association formed for the purposes of creating or promoting the creation of small holdings, and so constituted that the division of profits amongst the members of the association is prohibited or restricted.

10. *Provisions as to rules by county council.*—(1) The power to make rules conferred on a county council by section seven of the Small Holdings Act, 1892, shall, subject to the provisions of that Act, extend to the making of rules prescribing the terms and conditions on or subject to which small holdings are to be sold or let by the county council.

(2) All rules made under the said section as so extended shall be subject to confirmation by the Board.

11. *Number of dwelling-houses allowed on small holding.* A county council may, if they think fit, relax the condition imposed by section nine of the Small Holdings Act, 1892, that not more than one dwelling-house shall be erected on a holding, if in their opinion such relaxation will be for the benefit of that or adjacent small holdings provided by the council, but so that the council shall not authorise more than one dwelling-house to be erected for occupation with any one small holding.

12. *Power of county council to resume possession of holding on death of owner.*—(1) Where under sub-section (2) or sub-section (3) of section nine of the Small Holdings Act, 1892, the county council have power to cause or require a small holding to be sold, the council may, in the event of their requiring such holding for the purposes of the Small Holdings Act, 1892, or this Act, by notice in writing require the holding to be sold to themselves at such prices as, in default of agreement, may be determined by arbitration, and thereupon the council shall, after such date as may be specified by the notice and on production to the registrar of the land registry of evidence of service of the notice and of the payment of the sum so agreed or determined or of the tender of such payment, be registered as the proprietor of the land in place of the registered proprietor, and such registration shall operate as a registration on a transfer for valuable consideration under the Land Transfer Acts, 1875 and 1897 [38 & 39 Vict. c. 87; 60 & 61 Vict. c. 65.]

(2) A notice for the purpose of this section shall be deemed to be sufficiently served if sent by registered post addressed to the owner or the personal representatives of the deceased owner at his registered address or at his last known place of abode.

(3) This section shall only apply in the case where a small holding has been sold by the county council.

13. *Amendment of s. 11 of the Act of 1892.* In section eleven of the Small Holdings Act, 1892 (which relates to the right of purchase if a small holding is diverted from agriculture), the words "and then to the person or persons whose lands immediately adjoin the holding" shall be repealed.

14. *Provisions as to borrowing.*—(1) The maximum period which may be sanctioned as the period for which money may be borrowed by a county council under the Small Holdings Act, 1892, shall, where the purpose for which the money is borrowed is the purchase of land under that Act or this Act, be eighty years.

(2) Where a loan is made by the Public Works Loans Commissioners to a county council for the purposes of the Small Holdings Act, 1892, as amended by this Act—

(a) The loan shall be made at the minimum rate allowed for the time being for loans out of the local loans fund; and

(b) If the Local Government Board make a recommendation to that effect, the period for which the loan is made by the Public Works Loans Commissioners may exceed the period allowed under the Public Works Loans Act, 1875 [38 & 39 Vict. c. 89], and the Acts amending that Act, but the period shall not exceed the period recommended by the Local Government Board, nor, where the purpose of the loan is the pur-



chase of land, eighty years, or in any other case fifty years; and

- (c) As between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

15. *Delegation of powers to councils of boroughs or urban districts.*—A county council may make arrangements with the council of any borough or urban district in the county for the exercise by the council of that borough or district as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council in respect of the acquisition, adaptation, and management of small holdings for the borough or district, and the council of the borough or district may, as part of the arrangement, undertake to pay the whole or any part of the loss (if any) incurred in connection with those small holdings, and any sum payable in pursuance of any such undertaking shall be defrayed as part of the general expenses of the council in the execution of the Public Health Acts.

*Powers of Board of Agriculture and Fisheries.*

16. *Power of Board to provide small holdings.*—The Board may, if after inquiry they think it advisable to do so with a view to demonstrating the feasibility of the establishment of small holdings in any locality, exercise the powers conferred on county councils by the Small Holdings Act, 1892, and this Act in relation to small holdings (except the powers of acquiring land compulsorily and of borrowing) and those Acts shall apply as if references to the Board were substituted for references to a county council; but the expenses of the Board shall be defrayed out of, and their receipts paid into, the small holdings account, and no part thereof shall be paid out of any rate.

17. *Power of Board to repay part of expenses incurred by council.*—The Board may, if they think fit, and subject to regulations made by the Board with the approval of the Treasury, repay or undertake to repay to a county council, out of the small holdings account, the whole or any part of the expenses incurred by the council in proceedings in relation to the acquisition of land for the purposes of small holdings, and the amount so repaid shall not be treated as part of the costs incurred by the council in relation to land for the purposes of sections four and eighteen of the Small Holdings Act, 1892, but nothing in this section shall authorise the repayment of any part of any purchase money, compensation, or rent payable in respect of the land.

18. *Appointment of advisory and managing committees by Board.*—Where the Commissioners acting in default of a county council, or the Board for the purpose of demonstrating the feasibility of the establishment of small holdings, exercise the powers of a county council under the Small Holdings Act, 1892, or this Act, the Board may appoint such advisory and managing committees as they think fit, with such powers and duties as may be conferred or imposed on them, and may, with the consent of the Treasury, pay out of the Small Holdings Account all reasonable travelling and out-of-pocket expenses of the members of committees so appointed.

Provided that where the expenses are incurred for the purposes of the powers exercised by the Commissioners acting in default of a county council, those expenses shall be treated as expenses incurred by the Commissioners in the exercise of the powers of the county council.

19. *Creation of special account.*—(1) For the purposes of this Act there shall be opened an account at the Bank of England, called "The Small Holdings Account."

(2) There shall be paid to this account—

- (a) Such money as may from time to time be provided by Parliament towards defraying the costs and expenses of the Board directed by this Act to be paid out of the Small Holdings Account; and

- (b) All sums received by the Board and directed by this Act to be paid into the Small Holdings Account.

(3) The costs and expenses of the Board directed by this Act to be paid out of the Small Holdings Account shall be paid by the

Board out of the money standing to that account.

(4) At the end of every financial year, accounts of the receipts and expenditure of the Small Holdings Account shall be made up in such form and with such particulars as may be directed by the Treasury, and shall be audited by the Comptroller and Auditor-General as public accounts in accordance with such regulations as the Treasury may make, and shall be laid before Parliament, together with his report thereon.

(5) Payments out of, and into, the Small Holdings Account, and all other matters relating to the Account, and to the money standing to the credit of the Account, shall be paid and regulated in such manner as the Treasury direct.

## PART II.

### ALLOTMENTS.

20. *Transfer of powers, &c., under Allotments Acts.*—(1) The powers of the Local Board under the Allotments Acts, except such of those powers as relate to the finance of local authorities, shall be transferred to the Board of Agriculture and Fisheries, and, if any question arises as to whether any power is a power which has been transferred under this provision, the question shall be determined by the Local Government Board, whose decision shall be final.

(2) The powers and duties of rural district councils under the Allotments Acts shall be transferred to parish councils, and those Acts shall have effect as if references therein to the sanitary authority and the district thereof included references to the parish council and the parish, and subject to such other adaptations as may be necessary.

(3) All property acquired and all liabilities incurred by any rural district council under the Allotments Acts shall, as from an appointed day fixed by the Local Government Board either generally or as respects any particular district, by virtue of this Act be transferred to and vested in the parish council of the parish in respect of which the property was acquired or the liabilities incurred.

(4) Money borrowed by a parish council under section twelve of the Local Government Act, 1894 [56 & 57 Vict. c. 73], for the purposes of the powers and duties transferred to or conferred on the council under this Act shall not be reckoned as part of the debt of the parish for the purpose of the limitation on borrowing under the said section twelve.

(5) Sections two hundred and forty-two and two hundred and forty-three of the Public Health Act, 1875 (38 & 39 Vict. c. 55), relating to loans by the Public Works Loan Commissioners to a local authority, shall, with the necessary adaptations, apply to a loan to a parish council under the Local Government Act, 1894, or to a county council lending money to a parish council under that Act, where the purpose for which the loan is required by the parish council is the acquisition, improvement, or adaptation of land under the Allotments Acts as amended by this Act.

(6) Sections sixty-eight, seventy, seventy-two, eighty-five, eighty-six, eighty-seven, and eighty-eight of the Local Government Act, 1894 (which relate to adjustment of property and liabilities, determination of questions, local inquiries, current rates, accounts and proceedings, existing securities, and the discharge of existing debts, existing regulations, and pending contracts), shall apply as if they were herein re-enacted and in terms made applicable to this section.

21. *Amendments of Allotments Acts.*—(1) Five acres shall be substituted for one acre in sub-section (3) of section seven of the Allotments Act, 1887 [50 & 51 Vict. c. 48], as the limit of the extent of an allotment or allotments which may be held by one person:

Provided that—

- (a) The duty of a council under the Allotments Acts, as amended by this Act, to provide allotments shall not include the duty of providing allotments exceeding one acre in extent: and

- (b) any part of the land acquired by a council under the Allotments Acts or this Act which exceeds five acres may be adapted for letting and let as an allotment, if the county council are satisfied by the council that it is convenient and desirable that it should be so let and consent to such letting accordingly.

(2) The powers of improving and adapting land for allotments under the Allotments Acts shall include power to erect buildings and make adaptations of existing buildings, but so that not more than one dwelling-house shall be erected for occupation with any one allotment. No dwelling-house shall be erected for occupation with any allotment of less than one acre.

(3) A council shall have the same power of letting one or more allotments to persons working on a co-operative system or to an association formed for the purposes of creating or promoting the creation of allotments as may be exercised as respects small holdings by a county council.

22. *Compulsory acquisition of land for allotments.*—If a council are unable to acquire land by agreement and on reasonable terms under the Allotments Acts as amended by this Act, they may acquire land compulsorily in accordance with the provisions of this Act relating to compulsory acquisition of land.

23. *Management of allotments.*—(1) The powers and duties as to the management of allotments transferred to a parish council by sub-section (4) of section six of the Local Government Act, 1894, shall, in the case of a parish not having a parish council, be exercised and performed by persons appointed by the parish meeting.

(2) The provisions of the Allotments Acts, as amended by this Act, shall apply to an allotment of which the management is transferred to a parish council under sub-section (4) of section six of the Local Government Act, 1894, in like manner as if it had been acquired by the council under the general powers of the first-mentioned Acts.

24. *Powers of county councils as to allotments.*—(1) The following sub-section shall be substituted for sub-section (1) of section two of the Allotments Act, 1890 [53 & 54 Vict. c. 66]:—

"It shall be the duty of a county council to ascertain the extent to which there is a demand for allotments in the several urban districts (other than boroughs) and rural parishes in the county or would be a demand if suitable land were available, and the extent to which it is reasonably practicable, having regard to the provisions of the principal Act as amended by any subsequent enactment, to satisfy any such demand, and for that purpose to co-operate with such authorities, associations, and persons as they think best qualified to assist them, and take such other steps as they think necessary."

(2) If the Board are, in relation to any urban district (other than a borough) or rural parish, satisfied, after holding a local inquiry at which the county council and the council of the district or parish, and such other persons as the person holding the inquiry may, in his discretion, think fit to allow, shall be permitted to appear and be heard, that the county council have failed to fulfil their obligations under the Allotments Act, 1890, as amended by this section, the Board may by order transfer to the Commissioners all or any of the powers of the county council under the Allotments Acts as amended by this Act in relation to the district or parish, and those Acts shall apply as if references to the Commissioners were substituted for references to the county council and with such other adaptations as may be made by the order.

25. *Application of Allotments Acts to London.*—The powers conferred on sanitary authorities by the Allotments Acts as amended by this Act may in London be exercised by the London County Council, and those Acts as so amended shall apply accordingly, except that, subject to the provisions of this Act, the expenses shall be defrayed and money borrowed under and in accordance with the provisions of the Local Government Act, 1888 [51 & 52 Vict. c. 41].

PART III.  
GENERAL.

## Acquisition of Land.

28. *Procedure for compulsory acquisition of land.*—(1) Where a council propose to purchase land compulsorily under this Act, the council may, subject to the provisions of Part I. of the First Schedule to this Act, submit to the Board an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) Where a council propose to hire land compulsorily, the council may submit to the Board an order for the compulsory hiring of the land specified in the order for a period not less than fourteen nor more than thirty-five years, and the provisions of Part I. of the First Schedule to this Act shall apply to the order in like manner as it applies to an order for compulsory purchase, with the substitution of "hiring" for "purchase," and with the modifications set out in Part II. of that Schedule.

(3) An order under this section shall be of no force unless and until it is confirmed by the Board, and the Board may, subject to the provisions of the First Schedule to this Act, confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall become final and have effect as if enacted in this Act; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

(4) An order under this section may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired, and every such order shall, if so required by the owner of the land to be acquired, provide for the creation of such new easements as are reasonably necessary to secure the continued use and enjoyment by such owner and his tenants of all means of access, drainage, water supply, and other similar conveniences theretofore used or enjoyed by them over the land to be acquired: Provided that, notwithstanding anything contained in this subsection, no new easement created by or in pursuance of such order over land hired by a council shall continue beyond the determination of such hiring.

(5) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase or hiring being compulsory.

(6) Where land authorised to be compulsorily hired by an order under this section is subject to a mortgage, any lease made in pursuance of the order by the mortgagor or mortgagee in possession shall have the like effect as if it were a lease authorised by section eighteen of the Conveyancing and Law of Property Act, 1881 [44 & 45 Vict. c. 41].

(7) Where the council proposing to acquire land compulsorily is a parish council, the council shall, instead of themselves making and submitting to the Board the order, represent the case to the county council, and thereupon the county council may, on behalf of the parish council, exercise the powers in relation to compulsory purchase or hiring conferred on councils by this Act, and the order shall be carried into effect by the county council, but the land shall be assured or demised to the parish council, and all expenses incurred by the county council shall be paid by the parish council:

Provided that if the parish council are aggrieved by the refusal of the county council to proceed under this section, the parish council may petition the Board, and thereupon the Board, after such inquiry as they think fit, may make such an order as the county council might have made, and this sub-section shall apply as if the order had been made by the county council.

(8) If, after the determination of the amount of the compensation (including in the case of land hired compulsorily the rent) to be paid to any person in respect of his interest in the land proposed to be compulsorily acquired, it appears to the council that the land cannot be let for small holdings or allotments, as the case may be, at such a rent as will secure the

council from loss, the council may at any time within six weeks after the determination of the amount by notice in writing withdraw any notice to treat served on that person or on any other person interested in the land, and in such case any person on whom such a notice of withdrawal has been served shall be entitled to obtain from the council compensation for any loss or expenses which he may have sustained or incurred by reason or in consequence of the notice to treat and of the notice of withdrawal, and the amount of such compensation shall, in default of agreement, be determined by arbitration:

Provided that in every case in which the notice of withdrawal is given by the Commissioners acting in default of the council all compensation payable under this sub-section shall be paid out of the Small Holdings Account.

27. *Power of council to renew tenancy of land compulsorily hired.*—(1) Where a council has hired land compulsorily, for small holdings or allotments, the council may, by giving to the landlord not more than two years nor less than one year before the expiration of the tenancy notice in writing, renew the tenancy for such term, not being less than fourteen nor more than thirty-five years, as may be specified in the notice, and at such rent as, in default of agreement, may be determined by valuation by a valuer appointed by the Board, but otherwise on the same terms and conditions as the original lease, and so from time to time:

Provided that if on any such notice being given the landlord shall prove to the satisfaction of the Board that any land included in the tenancy is required for the amenity or convenience of any dwelling-house, then such land shall be excluded from the renewed tenancy.

(2) In assessing the rent to be paid under this section the valuer shall not take into account any increase in the value of the holding—

(a) due to improvements in respect of which the council would have been entitled to compensation, if instead of renewing the tenancy the council had quitted the land on the determination of the tenancy, or

(b) due to any use to which the land might otherwise be put during the renewed term, being a use in respect of which the landlord is entitled to resume possession of the land under this Act, or

(c) due to the establishment by the council of other small holdings or allotments in the neighbourhood,

or any depreciation in the value of the land in respect of which the landlord would have been entitled to compensation if the council had so quitted the land as aforesaid.

26. *Provisions as to voluntary leasing of land for small holdings or allotments.*—(1) Any person having power to lease land for agricultural purposes for a limited term, whether subject to any consent or conditions or not, may, subject to the like consent and conditions (if any), lease land to a council for the purposes of small holdings or allotments for a term not exceeding thirty-five years, either with or without such right of renewal as is conferred by this Act in the case of land hired compulsorily for those purposes.

(2) The like powers of leasing may be exercised, in the case of land belonging to the Crown, by the Commissioners of Woods, with the consent of the Treasury, in the case of land forming part of the possessions of the Duchy of Lancaster, by the Chancellor and Council of the Duchy of Lancaster by deed under the seal of the Duchy in the name of His Majesty his heirs and successors, and, in the case of land forming part of the possessions of the Duchy of Cornwall, by the Duke of Cornwall or other the persons for the time being having power to dispose of land belonging to that Duchy.

(3) The like powers of leasing may be exercised in the case of glebe land or other land belonging to an ecclesiastical benefice by the incumbent thereof with the consent of the Ecclesiastical Commissioners alone upon such terms and conditions and in such manner as the Ecclesiastical Commissioners may approve.

29. *Provisions as to glebe lands.*—In the case of glebe land or other land belonging to an ecclesiastical benefice hired by a council for the purposes of small holdings or allotments—

(1) The provisions of the Ecclesiastical Dilapidations Act, 1871 [34 & 35 Vict. c. 45], shall not during the continuance of the tenancy be applicable to the buildings upon the land;

(2) At the determination of the tenancy, on the council quitting the land, or at any time within twelve months thereafter, the incumbent of the benefice to which the land belongs may apply to the Ecclesiastical Commissioners for their consent to the removal of any buildings which have been erected on the land for the purpose of adapting the land for small holdings or allotments, and, on proof to the satisfaction of the Commissioners that any such buildings are useless, and that it is to the interest of the benefice that they should be removed, the incumbent may, with the consent of the Commissioners and subject to such directions as they may give, pull down any such buildings and dispose of the materials thereof, and any proceeds shall be paid to the Commissioners to be by them applied to the improvement of the benefice in such manner as the Commissioners may direct.

30. *Restrictions on the acquisition of land.*—

(1) No land shall be authorised by an order under this Act to be acquired compulsorily which at the date of the order forms part of any park, garden, or pleasure ground, or forms part of the home farm attached to and usually occupied with a mansion house or is otherwise required for the amenity or convenience of any dwelling-house, or which is woodland not wholly surrounded by or adjacent to land acquired by a council under this Act, or which at that date is the property of any local authority or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or is the site of an ancient monument or other object of archaeological interest.

(2) The council in making, and the Board in confirming, an order for the compulsory acquisition of land shall have regard to the extent of land held or occupied in the locality by any owner or tenant and to the convenience of other property belonging to or occupied by the same owner or tenant, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner or tenant, and for that purpose, where part only of a holding is taken, shall take into consideration the size and character of the existing agricultural buildings not proposed to be taken which were used in connection with the holding, and the quantity and nature of the land available for occupation therewith, and shall also, so far as practicable, avoid displacing any considerable number of agricultural labourers or others employed on or about the land.

(3) No holding of fifty acres or less in extent, nor any part of any such holding, shall be authorised by an order under this Act to be acquired compulsorily for the purposes of small holdings or allotments.

31. *Grazing rights, &c., to be attached to small holdings or allotments.*—(1) The powers of a council to acquire land for small holdings or allotments shall, subject to the restrictions by this Act imposed, include power to acquire land for the purpose of attaching to small holdings or allotments provided by the council rights of grazing and other similar rights over the land so acquired, and to acquire for that purpose estints and other alienable common rights of grazing.

(2) Any rights created or acquired by the council under this section shall be attached to the small holdings or allotments in such manner and subject to such regulations as the council think expedient.

(3) The powers conferred by this section shall be in addition to and not in substitution for the powers of providing common pasture conferred by section twelve of the Allotments Act, 1887.

32. *Interchange of land for small holdings and allotments.*—(1) A county council may sell or let to a borough, urban district, or parish council for the purpose of allotments any land acquired by them for small holdings, and a borough, urban district, or parish council may sell or let to the county council for the purpose



of small holdings any land acquired by them for allotments, and the provisions of the Lands Clauses Acts with respect to the sale of superfluous land shall not apply on any such sale.

(2) Sub-section (2) of section eleven of the Allotments Act, 1887, shall apply to the proceeds of sale under this section of land acquired for allotments.

**33. Power to resume possession of land hired compulsorily.]—**(1) Where land has been hired by a council compulsorily under this Act or the Allotments Acts, and the land or any part thereof at any time during the tenancy thereof by the council is shown to the satisfaction of the Board to be required by the landlord to be used for building, mining, or other industrial purposes, or for roads necessary therefor, it shall be lawful for the landlord to resume possession of the land or part thereof upon giving to the council twelve months' previous notice in writing of his intention so to do; and, if a part only of the land is resumed, the rent payable by the council shall as from the date of resumption be reduced by such sum as in default of agreement may be determined by valuation by a valuer appointed by the Board.

(2) Where the land has been hired compulsorily by the Commissioners acting in default of a county council, any question as to the right of the landlord to resume possession of the land or any part thereof under this section shall be determined by an arbitrator appointed by the Lord Chief Justice of England.

**34. Compensation for loss of employment by labourers.]** Where a labourer who has been regularly employed on any land acquired by a county council for small holdings, proves to the satisfaction of the county council that the effect of the acquisition was to deprive him of his employment, and that there was no employment of an equally beneficial character available to him in the same locality, the county council may pay to him such compensation as they think just for his loss of employment or for his expenses in moving to another locality, and any sum so paid shall be treated as part of the expenses of the acquisition of the land.

**35. Compensation for improvements.]—**(1) Where a council has let a small holding or allotment to any tenant, the tenant shall as against the council have the same rights with respect to compensation for the improvements mentioned in paragraph (27) (i) (ii) (iii) and (iv) of the First Schedule to the Agricultural Holdings Act, 1900 [63 & 64 Vict. c. 50], as if it had been agreed in writing that the holding or allotment should be let as a market garden:

Provided that the tenant shall not be entitled to compensation in respect of any such improvement if executed contrary to an express prohibition in writing by the council affecting either the whole or any part of the holding or allotment; but, if the tenant feels aggrieved by any such prohibition, he may appeal to the Board, who may confirm, vary, or annul the prohibition, and the decision of the Board shall be final.

(2) Where land has been hired by a council for small holdings or allotments, the council shall (subject in the case of land hired by agreement to any agreement to the contrary) be entitled at the determination of the tenancy on quitting the land to compensation under the Agricultural Holdings (England) Acts, 1883 to 1906, for any improvement mentioned in paragraph (27) (i) (ii) (iii) and (iv) of the First Schedule to the Agricultural Holdings Act, 1900, and for any improvement mentioned in Part I. or Part II. of that schedule which was necessary or proper to adapt the land for small holdings or allotments, as if such improvements as aforesaid were improvements mentioned in Part III. of that schedule:

Provided that, in the case of land hired compulsorily, the amount of the compensation payable to the council for those improvements shall be such sum as fairly represents the increase (if any) in the value to the landlord and his successors in title of the holding due to those improvements.

(3) The tenant of an allotment to which the Allotments Acts as amended by this Act may, if he so elects, claim compensation for improvements under the Allotments and Cottage Gardens (Compensation for Crops) Act, 1887 [50 & 51

Vict. c. 26], instead of under the Agricultural Holdings (England) Acts, 1883 to 1906, as amended by this section, notwithstanding that the allotment exceeds two acres in extent.

(4) Sub-section (5) of section seven of the Allotments Act, 1887, is hereby repealed.

#### Supplemental.

**36. Small holdings and allotments committees.]—**(1) Every county council shall establish a small holdings and allotments committee, consisting either wholly or partly of members of the council, but the members of the council shall be a majority, and all matters relating to the exercise and performance by the council of their powers and duties under the Small Holdings Act, 1892, the Allotments Acts, and this Act (except the power of raising a rate or borrowing money) shall stand referred to the small holdings and allotments committee, and references in the Allotments Acts to the standing committee shall be construed as references to the small holdings and allotments committee, and the council before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the small holdings and allotments committee with respect to the matter in question, and the council may also delegate to the small holdings and allotments committee, with or without restrictions or conditions, as they think fit, any of their powers under the said Acts except the power of raising a rate or borrowing money.

(2) The small holdings and allotments committee may delegate any of their powers to sub-committees, consisting either wholly or partly of members of the committee, and in appointing any sub-committee to which is committed the powers of management of small holdings shall have regard to the advisability of including amongst the members of the sub-committee members of the councils of the boroughs, urban districts, or parishes in which the holdings are situated, or for which they are provided, and other persons acquainted with the needs and circumstances of the area for which the sub-committee acts.

(3) Where any receipts or payments of money under this Act are entrusted by the county council to the small holdings and allotments committee, or any sub-committee thereof, the accounts of those receipts and payments shall be accounts of the county council, and made up and audited accordingly.

**37. Accounts of receipts and expenditure under the Small Holdings and Allotments Acts.]** Separate accounts shall be kept of the receipts and expenditure of a council under the Small Holdings Act, 1892, as amended by this Act, and under the Allotments Acts as amended by this Act, and any such receipts shall, subject to the provisions of those Acts, be applicable to the purposes of those Acts respectively, but not for any other purpose except with the consent of the Local Government Board; and, for the purpose of the provisions relating to the audit of accounts, any persons appointed by an urban sanitary authority under the Allotments Acts, or by a parish meeting under this Act, to exercise and perform powers and duties as to the management of allotments shall be deemed to be officers of the sanitary authority or parish meeting, as the case may be.

**38. Extension of 46 & 47 Vict. c. 51, s. 41 to small holdings.]** Section forty-one of the Agricultural Holdings (England) Act, 1883, which relates to the resumption of the possession of land by landlords with a view to its use for certain purposes, shall have effect as if there were included amongst those purposes the provision of small holdings.

**39. Co-operative societies, &c.]—**(1) A county council may promote the formation or extension of, and may, subject to the provisions of this section, assist, societies on a co-operative basis, having for their object, or one of their objects, the provision of the profitable working of small holdings or allotments, whether in relation to the purchase of requisites, the sale of produce, credit banking or insurance or otherwise, and may employ as their agents for the purpose any such society as is mentioned in sub-section (4) of this section.

(2) The county council, with the consent of, and subject to regulations made by, the Local

Government Board, may for the purpose of assisting a society make grants or advances to the society, or guarantee advances made to the society, upon such terms and conditions as to rate of interest and repayment or otherwise, and on such security, as the council think fit, and the making of such grants or advances shall be a purpose for which a council may borrow under the Small Holdings Act, 1892.

(3) Where the Board themselves provide small holdings under the provisions of this Act, they may, with respect to any such society carrying on business or intending to carry on business in the neighbourhood of those small holdings, exercise the powers of a county council under this section, and the provisions of this section shall apply accordingly, except that references to the Treasury shall be substituted for references to the Local Government Board, and that the expenses and receipts of the Board under this section shall be paid out of and into the Small Holdings Account.

(4) The Board with the consent of the Treasury may out of the Small Holdings Account make grants, upon such terms as the Board may determine, to any society, having as its object or one of its objects the promotion of co-operation in connection with the cultivation of small holdings or allotments.

**40. Provisions as to land acquired by Commissioners.]** Any land acquired by the Commissioners under this Act shall be vested in the Board, but the Board may at any time transfer the land to the council at whose expense the land was acquired, and shall so transfer the land on payment of all sums due from the council in connection therewith, and on proof to the satisfaction of the Board that the council are willing to exercise and perform their powers and duties in relation thereto.

**41. Provisions as to Commissioners.]** Anything by this Act required or authorised to be done by or to the Commissioners may be done by or to any one such Commissioner, and any document purporting to be signed by a Commissioner shall be received in evidence without proof of the appointment or handwriting of the Commissioner.

**42. Local inquiries.]—**(1) The Board and the Small Holdings Commissioners and other officers of the Board shall have for the purpose of an inquiry in pursuance of this Act the same powers as the Local Government Board and their inspectors respectively have for the purpose of an inquiry under the Public Health Act.

(2) Notices of the inquiries shall be given and published in accordance with such general or special directions as the Board may give.

**43. Arbitrations and valuations.]—**(1) All questions which under this Act are referred to arbitration shall, unless otherwise expressly provided by this Act, be determined by a single arbitrator in accordance with the Agricultural Holdings (England) Acts, 1883 to 1906.

(2) Where an order has been made and confirmed authorising the compulsory acquisition of land by the Commissioners acting in default of a county council the arbitrator or valuer, as the case may be, shall be appointed, by the Lord Chief Justice of England instead of by the Board.

(3) The remuneration of an arbitrator or valuer appointed under this Act shall be fixed by the Board.

**44. Annual report to Parliament.]** The Board shall make an annual report to Parliament of their proceedings, and of the proceedings of the Commissioners, under this Act, and also of the proceedings of the several county, borough, district, and parish councils, under the Small Holdings Act, 1892, the Allotments Acts, and this Act, and for that purpose every such council shall, before each date in every year as the Board may fix, send to the Board a report of their proceedings under the Small Holdings Act, 1892, the Allotments Acts, and this Act during the preceding year.

**45. Saving for existing tenancies.]** Nothing in this Act shall affect the rights and obligations under any tenancy created before the commencement of this Act under the Small Holdings Act, 1892, or the Allotments Acts.

**46. Interpretation.]—**(1) For the purposes of the Small Holdings Act, 1892, and this Act

the expression "small holding" means an agricultural holding which exceeds one acre and either does not exceed fifty acres, or, if exceeding fifty acres, is at the date of sale or letting of an annual value for the purpose of income tax not exceeding fifty pounds.

(2) For the purposes of this Act—

The expression "prescribed" means prescribed by regulations made by the Board:

The expression "Allotments Acts" means the Allotments Acts, 1887 and 1890, as amended by the Local Government Act, 1894:

The expression "landlord," in relation to any land compulsorily hired by a council, means the person for the time being entitled to receive the rent of the land from the council.

(3) For the purposes of the Small Holdings Act, 1892, the Allotments Acts, and this Act, any expenses incurred by a council in the enfranchisement of any land acquired by them for small holdings or allotments, or in the purchase or redemption of land tax, or any quit rent, chief rent, tithe, or other rent-charge, or other perpetual annual sum issuing out of land so acquired, shall be deemed to have been incurred in the purchase of the land.

(4) In this Act references to a parish council shall, in the case of a rural parish not having a parish council, include references to the parish meeting: Provided that any property by this Act transferred to and vested in a parish council shall in such a case be transferred to and vested in the chairman of the parish meeting and the overseers of the parish.

(5) Any notice required by this Act to be served or given may be sent by registered post.

47. *Short title, commencement, extent, and repeal.*—(1) This Act may be cited as the Small Holdings and Allotments Act, 1907, and, so far as it relates to small holdings, shall be construed with the Small Holdings Act, 1892, and may be cited with that Act as the Small Holdings Acts, 1892 and 1907, and, so far as it relates to allotments, shall be construed with the Allotments Acts, and may be cited with those Acts as the Allotments Acts, 1887 to 1907.

(2) This Act shall come into operation on the first day of January one thousand nine hundred and eight.

(3) This Act shall not extend to Scotland or Ireland.

(4) The enactments mentioned in the Second Schedule to this Act are hereby repealed, except as to Scotland, to the extent specified in the third column of that schedule.

#### SCHEDULES.

##### FIRST SCHEDULE.

[Section 26.]

##### PART I.

#### PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A COUNCIL.

(1) The order shall be in the prescribed form, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the council and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845 [9 & 10 Vict. c. 20], but subject to this modification, that any question of disputed compensation shall be determined by a single arbitrator appointed by the Board, who shall be deemed to be an arbitrator within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to arbitration shall, subject to the provisions of this schedule, apply accordingly.

(2) The order shall be published by the council in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners, lessees, and occupiers of that land as may be prescribed.

(3) If within the prescribed period no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall,

without further inquiry, confirm the order, but if such an objection has been presented and has not been withdrawn the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the council and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry.

(4) Before confirming the order the Board shall consider the report of the person who held the inquiry, and all objections made thereat.

(5) The arbitrator shall, so far as practicable, in assessing compensation act on his own knowledge and experience, but, subject as aforesaid, at any inquiry or arbitration held under this schedule the person holding the inquiry or arbitration shall hear, by themselves or their agents, any authorities or parties authorised by or under this Act to appear, and shall hear witnesses, but shall not, except in such cases as the Board otherwise direct, hear counsel or expert witnesses.

(6) The Board may, with the concurrence of the Lord Chancellor, make rules fixing a scale of costs to be applicable on an arbitration under this schedule, and an arbitrator under this schedule may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been caused or incurred unnecessarily.

(7) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the council shall be deemed to be the promoters of the undertaking.

(8) Where the land is glebe land or other land belonging to an ecclesiastical benefice the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

#### PART II.

#### PROVISIONS AS TO THE COMPULSORY HIRING OF LAND BY A COUNCIL.

(1) The Board shall make regulations for the purpose of carrying the order into effect and of protecting the council and the persons interested in the land, and the order shall incorporate such regulations, together with such provisions of the Lands Clauses Acts and of sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, as may, subject to the prescribed adaptations, appear to the Board necessary or expedient for that purpose.

(2) The order authorising the land to be hired compulsorily shall determine the terms and conditions of the hiring other than the rent, and in particular—

(a) shall provide for the insertion in the lease of covenants by the council to cultivate the land in a proper manner and to pay to the landlord at the determination of the tenancy on the council quitting the land compensation for any depreciation of the land by reason of any failure by the council, or any person deriving title under them, to observe such covenants or by reason of any user of the land by the council or such person as aforesaid, and (unless otherwise agreed) to keep the buildings and premises demised in repair; and

(b) shall not authorise the breaking up of pasture unless the Board are satisfied that it can be so broken up without depreciating the value of the land, or that the circumstances are such that small holdings cannot otherwise be successfully cultivated; and

(c) shall not except with the consent of the landlord confer on the council any right to fell or cut timber or trees or any right to take, sell, or carry away any minerals,

gravel, sand, or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land or otherwise adapting the land for small holdings or allotments, and except upon payment of compensation for minerals, gravel, sand, or clay so used.

(3) The determination of—

(a) The amount of the rent to be paid by the council for the land compulsorily hired;

(b) The amount of any other compensation to be paid by the council to any person entitled thereto in respect of the land or any interest therein, or in respect of improvements executed on the land or otherwise; and

(c) Where part only of a holding held for an unexpired term is hired, the rent to be paid for the residue of the holding during the remainder of that term;

shall in default of agreement be by valuation by a single valuer appointed by the Board: Provided that if the land hired is in the occupation of a tenant he may by notice in writing served on the council before the determination of his tenancy require that any claim by him against the council which, under the Agricultural Holdings (England) Acts, 1883 to 1906, might be referred to arbitration under those Acts shall be so referred, and in such case those claims shall be determined by arbitration under those Acts and not by valuation under this Act.

(4) The valuer, in fixing the rent to be paid for the land compulsorily hired, shall take into consideration the rent (if any) at which the land has been let and the annual value at which the land is assessed for purposes of income tax or rating, the loss (if any) caused to the owner by severance, the term and conditions of the hiring, including any reservation of sporting or fishing rights, and all the other circumstances connected with the land, but shall not make any allowance in respect of any use to which the land compulsorily hired might otherwise be put by the owner during the term of hiring, being a use in respect of which the owner is entitled to resume possession of the land under this Act.

(5) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land compulsorily hired shall, as far as possible, be provided for by taking such compensation into account in fixing the rent to be paid for the residue of the holding during the remainder of the term for which it is held by the tenant.

(6) Any person interested in any valuation shall give the valuer all such assistance, information, and explanations as he may require, and shall produce to the valuer, or give him access to, all such books, accounts, vouchers, and other documents relating to the land to be compulsorily hired as he may reasonably require for the purposes of valuation, and such expenses as the valuer certifies to have been properly incurred by any person in furnishing such assistance, information, and explanations, or otherwise, in relation to the valuation, shall be paid by the council.

(7) On the determination of any tenancy created by compulsory hiring any questions as to the amount due by the council for depreciation, shall in default of agreement be determined by arbitration.

#### SECOND SCHEDULE.

[Section 47.]

#### ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
50 & 51 Vict. c. 48.	The Allotments Act, 1887.	Sub-sections (2) and (3) and, except so far as they are applied by any other enactment, sub-sections (4) to (8) of section three. Section four. Sub-section (5) of section seven. Section nine.



Session and Chapter.	Short title.	Extent of Repeal.	Session and Chapter.	Short title.	Extent of Repeal.
53 & 54 Vict. c. 65.	The Allotments Act, 1890.	Sub-sections (2), (3), and (6) of section ten, and, except so far as it relates to urban sanitary authorities, the rest of that section. Sub-section (2) of section eleven from "Provided that" to the end of the sub-section. In section twelve, the words "if urban, or any parish in their district, if rural." Section fourteen. Sub-section (1) of section two and in sub-section (2) the words "by the inquiry herein-after mentioned." Sub-section (1) (2) and (3) of section three. Section four, from "and in the application of sub-section (6)" to the end of paragraph (d). Sub-section (2) of section six from "save that" to the end of the sub-section. Sub-section (3) of section six from "and in the case" to the end of the sub-section. Sub-section (2) of section one. Section two. Sub-section (2) of section four to "Provided that." In sub-section (3) of section four the words "in the case of small holdings which may be let." Section five. In section eleven the words "and then to the person or persons whose lands immediately adjoin the holding." Section sixteen. In section twenty the words from "and the expression 'electoral division'" to "shall mean ward," and the definition of "county elector." In sub-section (3) of section six the words "and of applying for the election of allotment managers," and "or the Allotments Act, 1890," and sub-section (4) of the same section from "and for the purposes of section sixteen of the Small Holdings			Act, 1892," to the end of the section. In sub-section (3) of section nine, the words "or on any proceeding under the Allotments Acts, 1887 and 1890," and the words "or for the purpose of allotments, as the case may be." In sub-section (5) of section nine, the words "or if the proceeding is taken on the petition of the district council, then the district council." In sub-section (9) of section nine, the words "when made on the petition of a district council, by that council, and in any other case." Sub-section (13) of section nine, to "is not so taken." In sub-section (14) of section nine, the words "otherwise than for allotments," and from "and any land purchased" to the end of the sub-section. Sub-sections (16) (17) and (18) of section nine. Section ten.
55 & 56 Vict. c. 31.	The Small Holdings Act, 1892.				
56 & 57 Vict. c. 73.	The Local Government Act, 1894.				

CHAPTER 55.

[London Cab and Stage Carriage Act, 1907.]

An Act to amend the Law relating to Cabs and Stage Carriages in London.

[28th August 1907.]

Be it enacted, &c.:

1. *Fares for taximeter cabs.*—(1) The Secretary of State shall have power by regulations made under section nine of the Metropolitan Public Carriage Act, 1869 [32 & 33 Vict. c. 115], to fix the fares to be paid for the hire in London of cabs fitted with taximeters, either on the basis of time or distance or both, and so as to differ for different classes of cabs and under different circumstances. Provided that the fare fixed for horse cabs fitted with taximeters shall not be less than at the rate of sixpence for every mile so far as the fare is fixed on the basis of distance, and of sixpence for every twelve minutes so far as the fare is fixed on the basis of time, and that no fare shall be less than sixpence.

(2) Regulations made under this section, so far as inconsistent with any enactment relating to the fare to be paid for the hire of cabs in London, shall take effect notwithstanding that enactment, and any enactments relating to cabs in London shall, as respects cabs for which fares are fixed under this Act, be construed as if a reference to the fares so fixed were substituted for a reference to the fares fixed under any of those enactments.

2. *Abolition of privileged cab system.*—(1) In the admission of cabs to a railway station, or in the treatment of cabs while in a railway station, the Company having the control of the station shall not show any preference to any

cab, or give any cab a privilege, which is not given to other cabs; and where any charge is made in respect of the admission of any cab to a railway station for the purpose of plying for hire therein, the charge made shall not exceed such sum as may be allowed by the Secretary of State.

(2) If it is proved to the satisfaction of the Secretary of State that it will not be possible to obtain a sufficient supply of cabs at a railway station for the proper accommodation of the public, unless the operation of this section is suspended or modified as respects that station, the Secretary of State may by order so modify or suspend the operation of this section with respect to that station, subject to such conditions as may be specified in the order.

(3) In this section the expression "railway station" includes the precincts thereof and the approaches thereto.

(4) Nothing in this section shall affect the liability of cabs or the drivers thereof to comply with any regulations or conditions which may be made by the company having control of a railway station for the purpose of maintaining order or dealing with the traffic at such station, including regulations as to—

- (i) The number of cabs to be admitted at any one time;
- (ii) The rejection of cabs and drivers unfit for admission; and
- (iii) The expulsion of any cabman who has been guilty of misconduct, or of a breach of the company's byelaws or regulations.

(5) This section shall come into operation on the first day of January nineteen hundred and eight, and shall remain in force up to the first day of January nineteen hundred and ten.

3. *Application of statutory provisions to stage carriages plying partly within and partly without London.* The Secretary of State may by general or special order apply to stage carriages which on every journey go to or come from some town or place beyond London, or any class of such stage carriages, any provisions of the Acts relating to stage carriages in London, from which those stage carriages are exempted by virtue of section two of the London Hackney Carriages Act, 1845 [6 & 7 Vict. c. 86], or section five of the Metropolitan Public Carriage Act, 1869 [32 & 33 Vict. c. 115], subject to any exemptions contained in the order.

4. *Stopping places for stage carriages.* The Commissioner of Metropolitan Police, and as respects the City of London the Commissioner of City Police, may give directions with respect to the stopping places for stage carriages in London, and if the driver or conductor of any stage carriage acts in contravention of any direction so given, he shall be liable in respect of each offence on summary conviction to a penalty not exceeding forty shillings.

5. *Application of statutory provisions to carriages used on light railways running in streets.* Section forty-eight of the Tramways Act, 1870 [33 & 34 Vict. c. 78] (which applies to tramways certain of the enactments relating to hackney carriages in London), and any enactments relating to stage carriages or metropolitan stage carriages in London, shall apply in the case of carriages used on any street or road in London by virtue of an order made under the Light Railways Act, 1896 [59 & 60 Vict. c. 48], in the same manner as they apply in the case of carriages used on a tramway.

6. *Definitions.*—(1) In this Act the expression "stage carriage" has the same meaning as in the Metropolitan Public Carriage Act, 1869 [32 & 33 Vict. c. 115], as amended by this Act, the expression "cab" has the same meaning as the expression "hackney carriage" has in that Act, the expression "fare" includes any payment to be made for the carriage of luggage on a cab, and any other payment to be made in respect of the hire of a cab, and the expression "taximeter" means any appliance for measuring the time or distance for which a cab is used or for measuring both time and distance

which is for the time being approved for the purpose by or on behalf of the Secretary of State.

(2) It is hereby declared that for the purposes of any Act relating to hackney carriages, stage carriages, metropolitan stage carriages, or cabs, in London, the expressions "hackney carriage," "stage carriage," "metropolitan stage carriage," or "cab" include any such vehicle, whether drawn or propelled by animal or mechanical power, and section seven of the

London Hackney Carriage Act, 1833 [3 & 4 Will. 4, c. 48], is hereby repealed.

(3) In this Act the expression "London" means the Metropolitan Police District and the City of London.

7. *Short title and extent of Act.*—(1) This Act may be cited as the London Cab and Stage Carriage Act, 1907.

(2) This Act shall only apply to London as defined by this Act.

## CHAPTER 56.

[*Evicted Tenants (Ireland) Act, 1907.*]

An Act to facilitate the provision of Land for certain Evicted Tenants in Ireland and for other purposes connected therewith, and to make provision with respect to the tenure of office by the Estates Commissioners.

[28th August 1907.]

\*.\* In the Statutes, at p. 35, col. 1, 15 lines from bottom, for "excluding" read "including."

## LIST OF PUBLIC ACTS.

Passed 1907 (7 Edward VII.).

Cap.	Title.	Statutes page.	Cap.	Title.	Statutes page.
27	Advertisement Regulation ... ..	19	55	London Cab and Stage Carriage ... ..	59
20	Appropriation... ..	14	18	Married Women's Property ... ..	14
2	Army (Annual) ... ..	1	12	Matrimonial Causes ... ..	8
8	Assay of Imported Watch Cases (Existing Stocks Exemption)... ..	2	52	Merchant Shipping ... ..	44
7	Australian States Constitution ... ..	1	40	Notification of Births ... ..	34
11	British North America ... ..	8	29	Patents and Designs (Consolidation) ... ..	24
21	Butter and Margarine ... ..	14	28	Patents and Designs (Amendment) ... ..	19
25	Commissioners for Oaths (Prize Proceedings) ... ..	19	22	Petty Sessions Clerks (Ireland) Amendment ... ..	—
50	Companies ... ..	38	19	Prisons (Ireland) ... ..	—
1	Consolidated Fund (No. 1) ... ..	1	17	Probation of Offenders ... ..	12
35	Council of India ... ..	—	30	Public Health (Scotland) Amendment ... ..	—
23	Criminal Appeal ... ..	15	53	Public Health Amendment... ..	45
47	Deceased Wife's Sister's Marriage ... ..	38	32	Public Health (Regulations as to Food) ... ..	33
4	Destructive Insects and Pests ... ..	1	36	Public Works Loans... ..	33
43	Education (Administrative Provisions) ... ..	35	48	Qualification of Women (County and Town Councils), Scotland ... ..	—
46	Employers' Liability Insurance Companies ... ..	37	33	Qualification of Women (County and Borough Councils) ... ..	33
10	Employment of Women ... ..	7	14	Released Persons (Poor Law Relief) ... ..	11
56	Evicted Tenants (Ireland) ... ..	—	15	Salmon and Fresh Water Fisheries ... ..	11
16	Evidence (Colonial Statutes) ... ..	12	42	Sea Fisheries (Scotland), Application of Penalties ... ..	—
31	Expiring Laws Continuance ... ..	33	51	Sheriff Courts (Scotland) ... ..	—
39	Factory and Workshop ... ..	34	54	Small Holdings and Allotments ... ..	53
13	Finance ... ..	8	44	Supreme Court of Judicature (Ireland) ... ..	—
5	Injured Animals ... ..	1	6	Telegraph (Money) ... ..	1
3	Irish Tobacco ... ..	—	9	Territorial and Reserve Forces ... ..	2
38	Irish Land ... ..	—	37	Transvaal Loan (Guarantee) ... ..	—
26	Isle of Man (Customs) ... ..	—	31	Vaccination ... ..	33
45	Lights on Vehicles ... ..	37	49	Vaccination (Scotland) ... ..	—
24	Limited Partnerships ... ..	18	41	Whale Fisheries (Scotland)... ..	—

\*.\* For Index of Statutes passed after the adjournment of the 4th of August, 1906 (6 Edw. 7), see p. 31.



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# DIGEST OF CASES REPORTED IN

## THE SOLICITORS' JOURNAL & WEEKLY REPORTER

FROM NOVEMBER 3RD, 1906, TO AUGUST 17TH, 1907.

ADEMPTION.—See Will.

### ADMINISTRATION:—

1. *Distribution—Contingent liabilities—Retention of assets—Parties*—*R. S. C. LV. 3, 5.*—The court will order distribution of a testator's estate among the residuary legatees notwithstanding the existence of a possible future claim against the estate for calls or shares of a company which are not fully paid up, and such order completely exonerates the executors from all liability. Such an order can only be made where administration is asked for; and the company ought not to be made a party to the proceedings.—*KING, RE, MELLOR v. SOUTH AUSTRALIAN LAND, & CO., Neville, J., 48; 1907, 1 Ch. 72.*

2. *Insolvent estate—Creditor's claim—Attendance in chambers—Right of creditor to attend—Discretion of judge—R. S. C. XVI. 47; LV. 42.*—Ord. 16, r. 47, and ord. 55, r. 42, do not give a creditor, who is not a party to the action, a right to attend proceedings in chambers in a creditor's administration action. The judge has a discretion to give a creditor leave to attend such proceedings, but in the exercise of such discretion will only give him leave to attend on the hearing of any particular claim when some reason is shown, and will not give him leave to attend generally.—*SCHWABACHER, RE, STERN v. SCHWABACHER, Parker, J., 326; 1907, 1 Ch. 719.*  
See also Attachment of Debts.

### ADULTERATION:—

*Spirits—Diluted below standard—Notice exhibited by publican—Spirits not of any guaranteed strength—Sale of Food and Drugs Act, 1875, ss. 1, 6—Amendment Act, 1879, s. 6.*—A notice exhibited by a publican to the effect that the spirits sold on the premises would not be of any guaranteed strength will not protect him from conviction for selling spirits diluted below 25 per cent. under proof.—*DAWES v. WILKINSON, K.B.D., 29; 1907, 1 K. B. 278.*

### ADVOCATE:—

*Professional misconduct—Article written by advocate as editor reflecting on judges—Suspension from practice.*—A barrister wrote an article in a local paper, of which he was editor, reflecting upon the judges of the High Court at Allahabad. The article was written in consequence of what took place while the barrister was conducting a case before the court. The High Court suspended him from practice for professional misconduct. He now appealed to the Privy Council on the ground that he was punished *quid* advocate for misconduct committed by him *quid* editor.

Their lordships held that the article constituted reasonable ground for the suspension, and dismissed the appeal.—*SARBADHICARY, RE, P.C., 144.*

### APPEAL:—

1. *Court of Appeal—Special leave—Expiration of time—Mistake of counsel—R. S. C. LVIII. 15.*—Special leave to appeal to the Court of Appeal from an order of a Divisional Court setting aside an award was refused where, owing to a mistake of counsel, notice of appeal was not given within fourteen days.—*COLES AND RAVENSHEAR, RE, C.A., 46; 1907, 1 K. B. 1.*

2. *In forma pauperis—Respondent—R. S. C. XVI. 22.*—A respondent to an appeal may apply *ex parte* by way of original motion to the Court of Appeal for leave to appear *in forma pauperis* upon an affidavit that he is worth £25, his wearing apparel and the subject-matter of the action only excepted. The affidavit need not be accompanied by a certificate of counsel.—*HARDFORD v. GEORGE CLARKE (LIMITED), C.A., 100; 1907, 1 K. B. 181.*

3. *Place of trial—Change of venue—Discretion of judge—R. S. C. XXXVI. 1.*—The Court of Appeal ought always to require a very strong case to be made out before they interfere with the discretion of a judge at chambers as to the place where an action shall be tried.—*THOROGOOD v. NEWMAN, C.A., 81.*

4. *Special case stated by arbitrator—Arbitrator not functus officio—Consultative jurisdiction of court—Arbitration Act, 1889 (52 & 53 Vict. c. 49), ss. 7, 19.*—There is no appeal from the opinion of the court on a special case stated by an arbitrator, where he has not in any event decided finally the rights of the parties and where he is not, therefore, *functus officio*. The jurisdiction of the court in such a case is consultative only, and not subject to appeal.—*HOLLAND STEAMSHIP CO., & CO., RE, C.A., 65.*  
See also Solicitor.

APPOINTMENT.—See Power, Revenue, Will.

### APPROPRIATION:—

*Interest upon loan—Waiver or release of interest—Entries in bankers' books not communicated to the customer—Bankers' Books Evidence Act, 1879—(42 & 43 Vict. c. 11)—Effect of acknowledgments by bankrupt against his trustee in bankruptcy.*—Where a creditor appropriates his debtor's payments in his books without communicating the appropriation to the debtor, the creditor is not bound by the appropriation. Entries in bankers' books under the Bankers' Books Evidence Act, 1879 (42 & 43 Vict. c. 11), are *prima facie* evidence against the world. A trustee in bankruptcy is bound by the acknowledgments of the bankrupt except in exercise of his powers to admit or reject proofs.

*Re Van Laun (1907, 1 K. B. 165) distinguished.*—*LONDON AND WESTMINSTER BANK v. BUTTON, Joyce, J., 466.*

### ARBITRATION:—

1. *Motion to set aside award—Amendment of points of defence and counterclaim at close of arbitration.*—An arbitrator may, in his discretion, hear evidence on and deal with points not covered by the pleadings or statements of the parties in the action, and may allow the necessary amendments to be made at the conclusion of the arbitration.—*TAVERNER v. CUFF, Kekewich, J., 248.*

2. *Remuneration of arbitrator—Evidence—Discretion of taxing-master—Arbitration Act, 1889 (52 & 53 Vict. c. 49), s. 15, sub-section 3.*—A taxing-master, when determining the remuneration to be paid to an arbitrator under section 15, sub-section 3, of the Arbitration Act, 1889, should act upon the evidence, if any, of persons in the same profession as the arbitrator as to what is a reasonable and fair charge to be made by a person of his position in the profession, and the taxing-master is not entitled to disregard that evidence and to allow a sum which he himself may think reasonable.—*S. MASON (LIMITED) v. LOVATT, C.A., 444.*  
See also Appeal, Costs, Light Railways.

### ATTACHMENT OF DEBTS:—

*Administration—Rents and Profits—Attachment before Judgment—Assets—Specialty Creditor—3 & 4 Will. 4, c. 104.*—Creditors of a testator in an action for administration of the real and personal estate of the testator moved for an injunction to restrain the devisees of real estate of the testator from dealing with a fund in court, which was paid into court in a partition action between the devisees, and represented rents and profits of real estate of the testator.

Held, that the fund could not be attached by the creditors until

a judgment in the creditors' action had been obtained.—*MOON, RE, HOLMES v. HOLMES, Warrington, J., 552.*

**BANKER.**—See Appropriation, Cheque, Company, Principal and Agent.

**BANKRUPTCY:—**

1. *Act of bankruptcy—Acquiescence in deed of assignment—Supplying goods to trustee under deed—Notice—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 4, sub-section 1 (a).*—An order for goods sent by a trustee under a deed, and signed by him as trustee, is not notice to a creditor that a deed of assignment has been executed, and the creditor is not precluded by the acceptance of such order from presenting a petition alleging such deed as the act of bankruptcy relied on.—*CROW, RE, EX PARTE COLLIER & Co., Bkcy., 593.*

2. *After-acquired property—Dealt with by bankrupt before intervention by trustee—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44.*—The rule that transactions by a bankrupt with persons dealing with him in respect of property acquired by him since his bankruptcy are valid until the trustee intervenes applies only to transactions for value. The bankrupt is agent of the trustee to deal with the property, not to give it away; nor can his next-of-kin retain such property against the trustee though received by them in good faith and without notice of the bankruptcy.—*BENNETT, RE, EX PARTE OFFICIAL RECEIVER, Bkcy., 53; 1907, 1 K. B. 149.*

3. *Application to set aside bankruptcy notice—Counterclaim—Bankruptcy Act, 1883, s. 4, sub-section 1 (g).*—When a debtor applies to set aside a bankruptcy notice on the ground that he has a counterclaim which equals or exceeds the amount of the judgment on which the bankruptcy notice is founded, such counterclaim must be mutual and due in the same right—e.g., in answer to a judgment obtained against him by executors the debtor cannot set up a claim against their testator's estate.—*MOLESWORTH, RE, C.A., 653.*

4. *Author and publisher—Sale of copyright—Claim for royalties.*—Where an author has sold outright the copyright of a book in consideration of the payment of royalties, and the publisher has become bankrupt, the author is only entitled to prove in the bankruptcy for damages for breach of contract, and cannot claim payment in full of his royalties out of the proceeds of sales of his book effected by the trustee after the bankruptcy.—*GRANT RICHARDS, RE, EX PARTE DEEPING, Bkcy., 345; 1907, 2 K. B. 33.*

5. *Bankruptcy notice—Final judgment—Summons for leave to enforce award—Arbitration Act, 1889 (52 & 53 Vict. c. 49), s. 12.*—The appellant, in pursuance of section 12 of the Arbitration Act, took out a summons for leave to enforce an award. The master made an order giving him leave to sign judgment. The appellant signed judgment and then applied to the Bankruptcy Court for the issue of a bankruptcy notice founded on the judgment.

Held, that the master had no jurisdiction to give leave to sign judgment, and that the judgment in question was not a final judgment upon which a bankruptcy notice could be founded.—*SMILES, RE, C.A., 132.*

6. *Bankruptcy notice—Judgment on claim and counterclaim—Two judgments—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 4, sub-section 1 (g).*—A judgment for the payment of one sum to one set of persons and of another sum to another set of persons is not one judgment but two, and consequently a bankruptcy notice cannot be founded upon it.—*BRIND, RE, C.A., 133.*

7. *Deed of arrangement—Registration—Deeds of Arrangement Act, 1887 (50 & 51 Vict. c. 57), ss. 4, 5, 6, 19.*—A deed of arrangement for the benefit of certain creditors named therein and for no others does not require registration under the Deeds of Arrangement Act, 1887, as a deed of arrangement for the benefit of creditors generally.—*SAUMAREZ, RE, EX PARTE THE TRUSTEE, C.A., 447; 1907, 2 K. B. 170.*

8. *Discharge—Order granting discharge subject to bankrupt's consent to judgment—Power of court to revoke order—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 104—Bankruptcy Act, 1890 (53 & 54 Vict. c. 71), s. 8, sub-section 2 (iv)—Bankruptcy Rules, 1886-1890, rr. 240, 244, 244b.*—Where the court has made an order granting a bankrupt his discharge subject to the conditions of consenting to a judgment for the balance of the debts provable in the bankruptcy, and payment of such balance out of the bankrupt's future earnings or after-acquired property, the court has power to revoke such order subsequently if good cause for revocation be shown, such as the failure to keep up the payment of instalments of the judgment debt as ordered by the court.—*SUMMERS, RE, EX PARTE OFFICIAL RECEIVER, Bkcy., 430; 1907, 2 K. B. 160.*

9. *Money lent to bankrupt with notice of act of bankruptcy to pay a composition—Benefit to estate—Trustee's duty to act equitably—Property of bankrupt—Relation back—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 43, 44.*—The holders of a mortgage for current account who advance money to the bankrupt with notice of an

act of bankruptcy cannot repay themselves such advances out of the surplus realized by the mortgaged property after payment of the amount due to them at the date of the act of bankruptcy, nor will they be heard to allege that their case is hard because they did not understand the effect of notice of an act of bankruptcy.

*Re Tyler (51 SOLICITORS' JOURNAL 291) distinguished.*—*HALL, RE, EX PARTE OFFICIAL RECEIVER, C.A., 292; 1907, 1 K. B. 875.*

10. *Mutual dealings—Lease of public-house by brewers—Set off of money due to tenant under valuation—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 38.*—Brewers let to the debtor a public-house, and the debtor agreed to take all his beer from them. The agreement provided that in case the tenancy was determined all moneys owing by the debtor to the brewers should be deducted from the valuation payable by the in-coming tenant and be paid to the brewers. The brewers lent the debtor money to pay the out-going tenant's valuation and supplied him with beer on credit. The debtor agreed to give up the house, and a valuation was made and paid by the in-coming tenant to the brewers, who had then notice of an act of bankruptcy by the debtor. Shortly afterwards a receiving order was made and the debtor adjudicated bankrupt. The brewers claimed to retain out of the valuation money the amount of the debts owing to them by the debtor.

Held, that there were mutual dealings between the brewers and the debtor, and that the brewers were entitled to set off the debts against the valuation money.—*RUSHFORTH, RE, EX PARTE HOLMES & SON, Bkcy., 30.*

11. *Petitioning creditor's debt—Petition based on judgment in action in delinquo—Return of chattel detained after act of bankruptcy—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 6, sub-section 1 (a).*—Where the petitioning creditor has obtained judgment in an action in delinquo for the return of a chattel forthwith, or its value, the debtor cannot defeat the creditor's right to a receiving order by returning the chattel after the completion of an act of bankruptcy.—*DEBIOR, A, RE, EX PARTE THE PETITIONING CREDITOR, Bkcy., 572.*

12. *Proof—Assignment of proof—Set off of costs due to trustee from proving creditor against dividend payable to assignees of proof.*—A trustee in bankruptcy can set-off costs due to him from a proving creditor against a dividend payable to a person to whom the creditor has assigned all rights under the proof.—*MAYNE, RE, EX PARTE THE TRUSTEE, Bkcy., 704.*

13. *Proof—Damages by order of goods which have passed to the trustee as in order and disposition of bankrupt—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 37, 44.*—An owner of goods who has consented to their remaining in the order and disposition of the bankrupt, so that they have become vested in the trustee, has a right of proof for damages for the loss of his goods.

Decision of Bigham, J. (51 SOLICITORS' JOURNAL 212), reversed.—*BUTTON, RE, EX PARTE HAVASIDE, C.A., 373; 1907, 1 K. B. 397.*

14. *Proof—Solicitor's charges—Draft bills of costs agreed—Waiver of delivery of detailed bills of costs—Account stated—Mortgage to secure agreed balance of the account—Trustee's right to go behind the mortgage and require particulars and vouchers—Solicitors Act, 1843 (6 & 7 Vict. c. 73), ss. 37, 41—Solicitors Act, 1870 (33 & 34 Vict. c. 28), ss. 4, 10—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), Schedule II., r. 22.*—Where a solicitor presents a proof for an amount agreed by the bankrupt as due to the solicitor for costs, the trustee in bankruptcy is entitled to go behind the bankrupt's agreement and require details and items of the costs, and to reject the proof if such details and items are not furnished.—*VAN LAUN, RE, EX PARTE CHATTERTON, C.A., 344; 1907, 2 K. B. 23.*

15. *Proof—Withdrawal of proof—Jurisdiction to inquire into proof under the Money-lenders Act, 1900—Bankruptcy Act, 1880 (46 & 47 Vict. c. 52), s. 102, Schedule I., r. 12; Schedule II., rr. 12 and 13—Money-lenders Act, 1900 (63 & 64 Vict. c. 51), s. 1, sub-section 3.*—Where a money-lender has presented a proof, and subsequently withdrawn it, the court will not after the withdrawal of the proof make an order for an inquiry into the proof under section 1, sub-section 3, of the Money-lenders Act, 1900, for a creditor has a right to withdraw his proof before it has been adjudicated upon, and when withdrawn it is as if it had never existed.—*ATTREE, RE, EX PARTE THE TRUSTEE, Bkcy., 687.*

16. *Property of bankrupt—Claim for premiums on policies paid by bankrupt's wife after bankruptcy—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44—Duty of the trustee as officer of the court to do what is just.*—Where a trustee in bankruptcy gets into his hands money which at law forms part of the property of the bankrupt divisible among his creditors, but in ordinary fairness and justice belongs to another person, the court will order the trustee as its officer to do justice and pay the money to the person really entitled to it. *Ex parte James, Re, Condon (L. R. 9 Ch. 609) and Ex parte Simmonds, Re Carnac (16 Q. B. D. 308), followed and applied.*—



TYLES, RE, EX PARTE THE TRUSTEE, C.A., 291; 1907, 1 K B. 865.

17. *Property of bankrupt—Relation back of trustee's title—Debt due to bankrupt—Garnishee order nisi—Payment to judgment creditor of bankrupt by debtor to trustee—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44—R. S. C. XLV. 7.*—A debtor to the bankrupt who, within the period of relation back, pays his debt to a judgment creditor of the bankrupt upon the service of a garnishee order nisi, without waiting for such order to be made absolute, will have to pay his debt over again to the trustee in the bankruptcy. —WEBSTER, RE, EX PARTE OFFICIAL RECEIVER, Bkcy., 230; 1907, 1 K B. 623.

18. *Set off of costs payable by debtor on unsuccessful application to set aside bankruptcy notice against costs payable by petitioning creditor on dismissal of petition—Costs payable by debtor included in petitioning creditor's debt.*—When a bankruptcy petition is dismissed with costs it is the universal practice to require the petitioning creditor to pay such costs to the debtor, and he is never allowed to set-off his debt or any part thereof against them.—A DEBTOR, RE, EX PARTE PETITIONING CREDITORS, Bkcy., 705.

19. *Trustee—Improper retainer of money of the estate by the trustee—Penal interest exacted for such misconduct—Conflicting claims of estate and Treasury to such interest—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 74, sub-sections 1 and 6.*—The penal interest of 20 per cent. on sums over £50 retained by the trustee in his hands for more than ten days by section 74, sub-section 6, of the Bankruptcy Act, 1883, is in the nature of a debt due from the trustee to the bankrupt's estate, and should be paid into the Bankruptcy Estates Account and not to the Treasury.—SIMS, RE, EX PARTE BOARD OF TRADE, Bkcy., 345; 1907, 2 K B. 36.

20. *Witness—Enforcing attendance for private examination—Conduct money—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 27, 142—Bankruptcy Rules, 1886, 1890, rr. 62, 66, 71, 92, Forms 149, 152, 164, 165.*—When a summons is taken out for the examination of a witness under section 27 of the Bankruptcy Act, 1883, such summons need not be personally served on the witness. Conduct money, to be measured by distance, is to be tendered with the summons in cash or postal orders. When a witness is arrested for non-compliance with the summons he can be detained in prison for a reasonable period until the examination can be held.—WEINBERG, RE, EX PARTE OFFICIAL RECEIVER, Bkcy., 388.

21. *Blank signature—Promissory note—Handing paper to person for custody—Custodian to fill in and issue note on receiving instructions—Note issued fraudulently—Liability of maker.*—Where a person signs a blank form of promissory note, and hands it to an agent to keep it in his custody, telling him not to fill it up and issue it as a complete promissory note unless and until he receives instructions to that effect, and the agent, in fraud of his principal, without receiving instructions, fills in and issues the note as a promissory note, the principal is not liable on the note to a bond fide holder for value, as he did not intend, when he handed the blank signed form to the agent, that the latter should fill it in and issue it as a promissory note, but only handed it to the agent for safe custody until the latter received instructions what to do with it.—SMITH v. PROSSER, C.A., 551.

22. *Indorsement—Incomplete bill—Bills of Exchange Act, 1882, ss. 55 and 56.*—By an agreement to be implied from a course of dealings between the parties extending over some years, bills of exchange were accepted by the defendant Tucker indorsed by one Smith and handed back to the plaintiff (the drawer) as security for pigs sold by the plaintiff to the defendant. In each case the acceptance by Tucker and the indorsement by Smith were placed upon a blank bill form and handed to the plaintiff for the purpose of getting it filled up as a bill of exchange. The bills in question in this case were so made. They were not met at maturity, and an action was brought under order 14. The question was whether the plaintiff, as the drawer of the bills, could recover against the defendant.

Held, following *Williams v. Ussin* (7 Q. B. D. 636), that the plaintiff was not precluded from suing the defendant on the ground of circuity of action, and was entitled to judgment for the amount of the bills.

*Jenkins & Son v. Coomber* (1898, 2 Q. B. 168) explained and distinguished.—GLENIE v. TUCKER, K.B.D., 571

See also *Cheque, Partnership*.

#### BREACH OF PROMISE:—

1. *Promise of marriage by man in lifetime of wife to woman who knows promisor is married—Whether promise contrary to public policy.*—A promise by a married man to marry a woman on the death of his wife, the woman knowing that the promisor was married, is not void as being contrary to public policy.—WILSON v. CARNLEY, K.B.D., 631.

2. *Promise of marriage—Promise by married man—Promise to take effect on death of wife—Breach—Contracts contrary to public policy—*

*Right to sue for damages.*—The defendant promised to marry the plaintiff on the death of his wife, the plaintiff knowing at the time the promise was made that the defendant was a married man. The wife died, but the defendant refused to keep his promise, and the plaintiff brought this action claiming damages. The jury found for the plaintiff with £100 damages.

Held, that such a promise was not illegal, and that the plaintiff was entitled to judgment.—WILSON v. CARNLEY (No. 2), K.B.D., 721.

#### CARRIER:—

*Negligence—Passenger—Conditions on ticket issued on board—Notice.*—The defendants issued on board one of their pleasure steamers a ticket to the plaintiff, who was a passenger. On the face of the ticket were the words, "At passenger's own risk," and there were also conditions on the back. The plaintiff while on board met with an accident. In an action to recover damages the county court judge awarded the plaintiff £50. The company appealed, on the ground that the conditions on the ticket saved them from liability, and that the judge had misdirected himself in deciding that no reasonably sufficient notice of the conditions was given to the plaintiff, who he found did not observe or read any notice printed upon the ticket.

Held, that the judge had come to a right conclusion, and had put the proper questions to himself to decide the liability of the company in the circumstances for the negligence of their servants.

—HOOPER v. FURNESS RAILWAY CO., K.B.D., 446.

See also *Railway*.

#### CHARITY:—

1. *Endowment—Voluntary contributions—Vendor and purchaser—Sale of land—Title—Consent of Board of Education—Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), ss. 62, 66—Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124), s. 29.*—A charity incorporated under section 23 of the Companies Act, 1867, having acquired by means of voluntary subscriptions certain premises for its general purposes, agreed to sell the same without obtaining the sanction of the Board of Education to the sale. On a summons taken out by the purchaser stipulating for such sanction being obtained, as being necessary by reason of section 29 of the Charitable Trusts Amendment Act, 1855.

Held, that the property acquired by the society for its general purposes by voluntary subscriptions, and maintained wholly by voluntary contributions, did not fall within the purview of the Charitable Trusts Act, 1853; that for the purposes of section 62 of that Act all charities were either endowed or non-endowed, and that any charity not being an endowed charity within the meaning of the section was a non-endowed charity.—SOCIETY FOR TRAINING TEACHERS OF THE DEAF AND WHITTLE'S CONTRACT, RE, Neville, J., 673.

2. *Will—Legacies—Gift to vicar and churchwardens—Valid charitable bequests.*—A gift by will to "the vicar and churchwardens for the time being" of a parish is a valid charitable bequest, even though followed by the words "to be applied by them in such manner as they shall think fit"—GARRARD, RE, GORDON v. CRAIGIE, Joyce, J., 209; 1907, 1 Ch. 382.

3. *Legacy to school—Failure of object—Closed as a day school—Continued as a Sunday school.*—A legacy to an elementary school, founded under a trust deed, does not lapse by reason of its being closed as a day school before the death of the testator, if it continues to be used as a Sunday school.—WARING, RE, HAYWARD v. ATTORNEY-GENERAL, Kekewich, J., 101; 1907, 1 Ch. 166.

#### CHEQUE:—

1. *Countermand of payment—Cheque to banker—Telegram stopping cheque put into letter box—Notice of to banker—Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), s. 75.*—A telegram unconfirmed by letter may be a countermand of payment within the meaning of section 75 of the Bills of Exchange Act, 1882—i.e., a customer of a bank may stop a cheque by telegram.

Where a telegram from a customer stopping a cheque was placed in the letter-box of a bank after business hours on the 31st of October, and the cashier clearing the box, according to his custom, on the following morning, the 1st of November, overlooked the telegram, but found it there on clearing the box on the 2nd of November, and brought it to the manager.

Darling, J., was of opinion that the bank had notice of the countermand of payment on the morning of the 1st of November when the box was cleared.

A. T. Lawrence, J., was of opinion that the bank had no such notice until the morning of the 2nd of November.—CURTICE v. LONDON CITY AND MIDLAND BANK, K.B.D., 534.

2. *Proceeds of cheque obtained by fraud—Right to follow the proceeds—Garnishee issue—Practice—Parties.*—The right of a judgment creditor obtaining a garnishee order against the fund attached is similar to that of an assignee taking subject to all equities against

the assignor; it is therefore not necessary that the judgment debtor should be a party to an issue stated to determine whether the judgment creditor or the person seeking to enforce such an equity has the better right to the fund in dispute.

Where a cheque was obtained by means of false pretences by the payee,

Held, that the transaction could be avoided by the drawer of the cheque, and thereupon the property in the proceeds of the cheque being represented by a balance at a bank in the name of the payee re-vested in the drawer.—*LEVENE v. MATON, K.B.D.*, 532.

See also *Gaming*.

#### CLUB:—

*Rules—Power to alter—Fundamental objects—Particular sport—Abolition by resolution—Validity of resolution.*—A club which has power to alter its rules can validly alter a rule which prescribes the objects for which the club is formed, even though the alteration involves the discontinuance of one of the original objects of the club.—*THELLUSSON v. VALENTIA, C.A.*, 427; 1907, 2 Ch. 1.

#### COMPANY:—

*1. Articles of association—Director—Resignation—Notice in writing—Acceptance of notice—Resolution of board of directors.*—The plaintiff having handed a notice of his resignation as managing director in writing to the company, subsequently withdrew the same by letter. The defendants, acting under the articles of association of the company, duly convened a meeting of the board of directors, at which a resolution was passed that the plaintiff had vacated his office. Upon a motion by the plaintiff for an injunction to restrain the defendants from excluding him from his office as managing director,

Held, that, the plaintiff, having given notice of resignation as required by article 84, was not entitled to withdraw the same without the consent of the company. Resignation of office depended on notice properly given, and not on acceptance of the same by the company.—*GLOSSOP v. GLOSSOP, Neville, J.*, 606.

*2. Contributory—Transfer of shares—Purchase in name of infant—Registration of infant nominee as shareholder.*—M. S., during the voluntary winding up of the company, transferred twenty shares to L., an infant in the employ of M. & Co., the purchasers. The transfer was accepted by the liquidator, and L. placed on the list of contributories. When it became known that L. was an infant it was sought to put M. & Co. on the list of contributories.

Held, that as M. & Co. were not in any contractual relation with the company they were not liable to be placed on the list of contributories.—*NATIONAL BANK OF WALES, RE, Parker, J.*, 266; 1907, 1 Ch. 582.

*3. Debentures issued as security for loan—Face value—Right to vote.*—Holders of debentures issued by a company as collateral security for a loan are entitled to vote in respect of the face value of the debentures held by them, and not merely to the extent of the actual indebtedness to them of the company.—*KENT COLLIERIES, RE, DAY v. KENT COLLIERIES, C.A.*, 498.

*4. Debentures—Debentures issued as security for loan—Payment off of loan—Extinction of debentures.*—Debentures issued by a company to secure a loan and deposited with the lenders are extinguished for the benefit of other debenture-holders of the same series on the payment off of the loan so as to prevent the company raising a fresh loan on the security from the same lenders, even though the debentures have continued in the custody of the lenders and have never been delivered up to the company.—*LONDON GENERAL INVESTMENT TRUST v. RUSSIAN PETROLEUM CO., C.A.*, 718.

*5. Director—Limited company sole director—Companies Acts, 1862-1900.*—A limited company incorporated under the Companies Acts, 1862-1900, may be appointed and may act as the director of another limited company.—*BULAWAYO MARKET AND OFFICES CO., RE, Warrington, J.*, 703.

*6. Director—Remuneration—Special provision—Capital outlay—Profit and loss account.*—Sums paid by a company to its directors as remuneration for special services should be debited to profit and loss account and not to capital. No special article could authorize such sums to be debited improperly to capital.—*ASHTON & CO. (LIMITED) v. HONEY, Parker, J.*, 211.

*7. Floating charge—Prior charge excluded—Bank—Equitable incumbrancers—Notice—Priority.*—A company issued debentures which were a floating charge and which precluded the creation of any prior charge. The debentures were registered under the Companies Act. Part of the assets of the company were subsequently deposited by the company with their bank as security for money owing. The bank did not inquire whether there was any clause in the debentures prohibiting the company from mortgaging the assets in priority to the debenture-holders.

Held, that the bank were not put upon inquiry by the registration of the debentures and were entitled to priority.—*STANDARD ROTARY MACHINE CO., RE, Kekewich, J.*, 48.

*8. Meeting of company—Shareholder voting by proxy—Proxy stamped, but dates of execution and meeting left blank—Dates filled in by duly authorized person—Validity of proxy.*—A proxy stamped before execution, the date of the execution of which is left blank, and also the date of the meeting at which it is to be used, and which is subsequently completed by a duly authorized person filling in the dates, is valid.—*SADGROVE v. BRYDEN, Parker, J.*, 210; 1907, 1 Ch. 318.

*9. Memorandum of association—Alteration effecting extension of objects—Companies (Memorandum of Association) Act, 1890 (53 & 54 Vict. c. 62), s. 1.*—The court will not confirm a proposed alteration in a company's memorandum of association, effecting an extension of the company's objects, unless the name of the company is, if necessary, altered so as to indicate the extension of objects.—*EGYPTIAN DELTA LAND AND INVESTMENT CO., RE, Parker, J.*, 211.

*10. Memorandum of association—Alteration—Enlarging objects of company—Companies (Memorandum of Association) Act, 1890 (53 & 54 Vict. c. 62), s. 1 (5).*—The Cyclists' Touring Club, which was registered under the Companies Acts, was formed to promote, assist, and protect the use of bicycles, tri-cycles, and other similar vehicles on public roads, to provide legal assistance to their riders, and to promote the comfort of its members while touring by furnishing information and in other ways. A special resolution was passed for altering the memorandum so as to broaden the basis of the club and extend the advantages of its membership to motorists.

Held, that the proposed alteration was not within the Companies (Memorandum of Association) Act, 1890, s. 1, sub-section 5 (a) or (d), and therefore the court could not sanction it.—*CYCLISTS' TOURING CLUB, RE, Warrington, J.*, 172; 1907, 1 Ch. 269.

*11. Money borrowed for purposes of construction—Interest charged against capital—Ultra vires.*—Apart from statute or stipulation there is no rule of law which compels a company to charge interest on money borrowed for purposes of construction against revenue and which prohibits it from charging such interest to the capital account.—*HINDS v. BUENOS AYRES GRAND NATIONAL TRAMWAYS CO., Warrington, J.*, 13; 1906, 2 Ch. 654.

*12. Name—New company—Similarity of name—Descriptive words—Injunction—Companies Act, 1862 (25 & 26 Vict. c. 89), s. 20.*—If a company incorporates in its name descriptive words it cannot claim a monopoly of those words.

The plaintiff company was formed in 1903. In 1906 the defendant company was formed, and carried on business two doors from the plaintiff company's premises. In an action to restrain the defendant company from using the words "vacuum cleaner" as part of its name,

Held, that, as the words in question were merely descriptive, and there was no evidence of bad faith, and in spite of the fact that confusion had arisen, the defendant company's name was sufficiently distinctive, and the defendant company was entitled to include in it the words "vacuum cleaner."—*BRITISH VACUUM CLEANER CO. v. NEW VACUUM CLEANER CO., Parker, J.*, 553.

*13. Reduction of capital—Paying off capital in excess of company's wants—Form of minute.*—The court approved of a form of minute in the following terms: "The capital of the Anglo-Italian Bank (Limited), incorporated 1866, is £10,000 divided into 10,000 shares of £1 each instead of £50,000 divided into 10,000 shares of £5 each. At the date of the registration of this minute each share is to be deemed to be fully paid up."—*ANGLO-ITALIAN BANK, RE, Warrington, J.*, 48.

*14. Reduction of capital—Reserve fund—Loss written off capital account.*—A shipping company created out of profits reserve accounts for underwriting and insurance. Paid-up capital of the company to the extent of £88,000 had been lost, the loss being due to depreciation in value of the company's ships. It was proposed to charge the greater part of the loss against the capital account, and to take a small sum out of the balance standing to the credit of the profit and loss account.

Held, that the court could sanction the reduction without attributing any part of the loss to the reserve funds.—*ROWLAND & MARWOOD'S STEAMSHIP CO., RE, Warrington, J.*, 131.

*15. Reduction of capital—Scheme—Extinguishment of founders' shares—Capital lost or no longer represented by available assets—Sanction of the court—Companies Acts, 1867 and 1877 (30 & 31 Vict. c. 131, ss. 9, 126; and 40 & 41 Vict. c. 26, s. 3).*—A scheme for the reduction of the capital of a limited bank provided that the ordinary shares should be written down and that the founders' shares, of which there were 750, should be cancelled.

The petition for the sanction of the court to the proposed scheme was opposed on several grounds by certain dissentient shareholders, who between them held forty-four founders' shares.

Held, that the sole question which the court had to consider was whether the reduction was fair and equitable as between the different



classes of shareholders, it being no part of the business of a court of justice to determine the wisdom of a course adopted by a company in the management of its own affairs.

Per Lord Macnaghten.—The power conferred by the act of 1867 is perfectly general. It is not necessary, in order to give the court jurisdiction to entertain a petition, to prove that the capital which the company proposes to cancel is lost or unrepresented by available assets.—*POOLE v. NATIONAL BANK OF CHINA, H.L., 513.*

16. *Share capital offered to the public for subscription—Minimum subscription—Return of application money—Companies Act, 1900 (63 & 64 Vict. c. 48), s. 4.*—A company issued a prospectus which was only circulated among the friends and acquaintances of the directors of the company. The minimum subscription stated in the prospectus was not subscribed.

Held, that this was not an offer of share capital to the public for subscription within the meaning of section 4 of the Companies Act, 1900 (63 & 64 Vict. c. 48), and therefore an applicant was not entitled to have his application money returned to him.—*SHERWELL v. COMBINED INCANDESCENT MANTLES SYNDICATE, Warrington, J., 446.*

17. *Winding up—Director's fees obtained as director of another company.*—A director of a company who qualifies for directorship of another company by shares therein purchased by the first company is under no obligation to account for fees received as a director of the second company. He obtains such fees in return for work and not by virtue of shareholding.—*DOVER COALFIELDS EXTENSION (LIMITED), RE, Warrington, J., 466; 1907, 2 Ch. 76.*

18. *Winding up—Petition for—Application to substitute another petitioner—Companies Winding-up Rules, 1903, r. 36.*—An application to substitute another petitioner under the Companies Winding-up Rules, 1903, r. 36, will only be entertained where the original petition is founded on a valid subsisting debt, and where the petitioner for some good reason is not able to proceed with his petition. It was refused, therefore, where the debt was disputed and founded on a judgment which the Court of Appeal had set aside.—*CHARLES (LIMITED), RE, Warrington, J., 101.*

19. *Winding up—Petition—Two directors—Deadlock—Companies Act, 1862 (25 & 26 Vict. c. 89), s. 79.*—The only two directors of a company failed to agree in carrying on the business of the company. There was power under the articles to appoint a third director. A petition was presented to wind up the company on the ground that there was an absolute deadlock, owing to the disagreement of the two directors.

Held, that the deadlock was only temporary and could be removed by appointing a third director, and therefore no winding-up order ought to be made.—*FURRIERS' ALLIANCE (LIMITED), RE, Warrington, J., 172.*

#### CONSPIRACY:—

*Wrongful act—Injury—Injunction.*—Action for damages and an injunction based on an alleged conspiracy to injure the plaintiff.

Held, dismissing the plaintiff's appeal, that there was no evidence establishing the plaintiff's allegation that the defendant, in common with certain other persons, had unlawfully conspired to injure her, or that she had thereby been caused the loss of which she complained.—*SWEENEY v. COOTE, H.L., 444; 1907, A. G. 221.*

#### CONTRACT:—

*Sale of goods—Retail dealer—Condition not to sell goods at a discount.*—The plaintiffs required all retail dealers who purchased their goods to sign an agreement not to sell the goods at a discount nor to dealers on the plaintiff's suspended list. The defendants, who were on the suspended list, procured, through an agent, from a retail dealer, who had signed the agreement, a number of the plaintiffs' goods at a discount. The plaintiffs thereupon brought this action to restrain the defendants from procuring persons who had signed the agreement to sell to the defendants goods of the plaintiffs, to the damage of the plaintiffs, and in breach of the agreement.

Held, that the action could not be maintained.—*NATIONAL PHONOGRAPH CO. v. EDISON-BELL CONSOLIDATED PHONOGRAPH CO., Joyce J., 131.*

#### COPYHOLDS.—See Lands Clauses Act.

#### COPYRIGHT:—

1. *Book—Sheet of letterpress—Placed on money-box—Copyright Act, 1842 (5 & 6 Vict. c. 45), s. 2.*—A sheet of letterpress placed on a money-box and which gave information as to the advantage which a person would get who used the box in a certain way is not a sheet of letterpress "separately published" and is not therefore the subject of copyright.—*WARREN v. FOSTER BROTHERS CLOTHING CO., Warrington, J., 145.*

2. *Letters—Book—Right to publish—Publication after author's death—Proprietor of manuscript—Copyright Act, 1842 (5 & 6 Vict. c. 45),*

*ss. 1, 3, 28.*—At common law the writer of a letter and his legal personal representatives are entitled to prevent its publication, and this is a right of property. But the copyright in a letter published after the author's death is vested by section 3 of the Copyright Act, 1842, in the proprietor of the author's manuscript, that is, the paper with the words inscribed on it.—*MACMILLAN v. DENT, C.M., 46; 1907, 1 Ch. 107.*

3. *Music—Composer and publisher—"Sole and exclusive right of printing and publishing"—Copyright Act, 1842 (5 & 6 Vict. c. 45), ss. 2, 14—Appeal—Order expunging entry in register—Judicature Act, 1873 (36 & 37 Vict. c. 66), s. 19.*—An order of the High Court directing an entry in the register of copyrights to be expunged under section 14 of the Copyright Act, 1842, is an "order" within the meaning of section 19 of the Judicature Act, 1873, from which an appeal lies. An agreement was made between the applicant, who was the composer of a musical composition, and the defendants, who were music publishers, that, in consideration of the applicant giving to the defendants the sole and exclusive right of printing and publishing the composition and issuing the same in volume form, the following conditions should apply: (1) The cost of printing and issuing the volume should be borne by the defendants; (2) the defendants should pay to the applicant 6d. on each copy sold; (3) the defendants should supply the applicant with such copies as he might require at 1s. 6d. a copy. The defendants, without the applicant's consent, registered themselves as proprietors of the copyright. Upon an application to expunge the entry.

Held, that neither the agreement nor the entry of the defendants in the register amounted to an assignment of the copyright. Decision of Kekewich, J. (30 SOLICITORS' JOURNAL, 668; 1906, 2 Ch. 595), affirmed.—*JUDE v. REID BROTHERS, C.A., 426; 1907, 1 Ch. 651.*

4. *Musical composition—Phonographic record used for producing song—Words and music of a song.*—A phonographic record is not a copy of a sheet of music within the Copyright Act, 1842.—*NEWMARK v. NATIONAL PHONOGRAPH CO., K.B.D., 412.*

See also Bankruptcy, Letters.

#### COSTS:—

1. *Action for negligence—Charge of fraud abandoned—Jury disagree.*—Where in an action a charge of fraud is made and abandoned, and the jury disagree as to their verdict and are discharged, the defendant is entitled to the costs occasioned by the charge of fraud.—*DANBY v. P., K.B.D., 307.*

2. *Consolidation of actions—Set off of costs in independent proceedings—Solicitors' lien—B. S. C. LXV. 14 and 27 (21).*—Ord. 63, r. 14, and rule 27 (21) are not applicable to costs incurred in independent proceedings. The court will not construe a consolidation order so as to affect the rights of parties under orders which are already made, a consolidation order being intended to control future procedure.—*BAKE v. FRENCH, Parker, J., 326; 1907, 1 Ch. 428.*

3. *Corporation—Action in county court—Taxation—County Courts Act, 1888, s. 118—Public Authorities Protection Act, 1893, ss. 1, 2.*—An action was brought in the county court against a corporation which was dismissed with costs. The county court judge held that the County Courts Act, 1888, did not apply, but that the Public Authorities Protection Act did apply, and that the costs must be taxed as between solicitor and client irrespective of the County Courts Act, 1888.

Held, that the county court judge was wrong, and that all that the corporation were entitled to by virtue of the Public Authorities Protection Act were solicitor and client costs according to the scale applicable in the county court.—*TORY v. DORCHESTER CORPORATION, K.B.D., 147; 1907, 1 K. B. 393.*

4. *Counsel—Third counsel at the trial and in Court of Appeal.*—In a very heavy case where a large sum of money was involved, and which lasted several days both at the trial and in the Court of Appeal, there being two sets of defendants, the taxing-master allowed the main defendants the costs of three counsel at the trial, but of only two counsel in the Court of Appeal, and he allowed the costs of only two counsel for the other defendants, both at the trial and in the Court of Appeal. The judge at chambers having refused to direct a review of taxation,

The Court refused to interfere with the exercise by the taxing-master of his discretion, no wrong principle having been applied; Fletcher Moulton, L.J., however, dissenting upon the question as to the costs of the third counsel for the main defendants in the Court of Appeal, which he thought ought to have been allowed.—*DENBY and CADNEY COLLIERIES v. YORKSHIRE MINERS' ASSOCIATION, C.A., 589.*

5. *Detinue—Recovery of goods in specie—Value less than £10—County Courts Act, 1888 (51 & 52 Vict. c. 43) s. 116, sub-section 2.*—In an action of detinue judgment was given for the plaintiff for the return of the goods claimed or £6 10s., their value, and the goods were returned to him.

Held, that section 116, sub-section 2, of the County Courts Act, 1888, did not apply, and the plaintiff was entitled to costs.—*TROTTER v. WINDHAM & Co., C.A.*, 625.

6. *Separate issues*—"Event"—*Judgment*—*R. S. C. LXV. 1.*—Where at the trial of an action the jury find a verdict for the plaintiff upon one issue and for the defendant upon another issue, and the judge directs judgment to be entered for the plaintiff with the general costs of the action, and makes no order as to the costs of the issue on which the defendant has succeeded, the judgment will be drawn up in the office so as to give to the defendant the costs of the issue upon which he has succeeded.—*HOYES v. TATE, C.A.*, 245; 1907, 1 K. B. 656.

7. *Shorthand notes*—*Transcript*—*Taxation*—*Discretion of taxing-master*.—Shorthand notes are an unusual expense and will not as a general rule be allowed even on a solicitor and client taxation against a fund or estate, but the taxing-masters on such a taxation have a discretion on the subject in exceptional cases, which is exercised very sparingly.—*DE NICOLS, RE, DE NICOLS v. CURLIER, Kewich, J.*, 47.

8. *Special case stated by arbitrator*—*Jurisdiction of arbitrator to award costs*—*Arbitration Act, 1889 (52 & 53 Vict. c. 49), s. 24.*—On the hearing of a special case stated by an arbitrator the costs do not follow the result of the judgment, since by section 24 of the Arbitration Act, 1889, the question of costs in special cases is specially reserved for the arbitrator.—*GREAT EASTERN RAILWAY v. LONDON COUNTY COUNCIL, K.B.D.*, 132.

9. *Taxation*—*Three counsel*—*Fees*—*Discretion of taxing-master*—*Importance of issues involved*—*R. S. C. LXV. 27 (29).*—On a summons to review taxation the court cannot shelter itself behind the taxing-master's discretion as to the allowance or disallowance of the costs occasioned by the employment of three counsel. Ord. 65, r. 27, sub-rule 29, does not give the taxing-master a wider discretion than he had before the introduction of the rule. The importance of a case both pecuniarily to the parties and commercially to the community is not of itself always sufficient to justify the employment of three counsel, but is a factor to be taken into consideration by the taxing-master.—*PEEL v. LONDON AND NORTH-WESTERN RAILWAY CO., Parker, J.*, 325; 1907, 1 Ch. 607.

10. *Two defendants*—*Judgment against first defendant with costs*—*Judgment for second defendant with costs*—*Order on one defendant to pay costs of other defendant*—*Judicature Act, 1890, s. 5*—*R. S. C. XVI. 4, 7; XVIII. 1, 8; LXV. 1.*—In an action of tort, judgment was entered for the plaintiff against the first defendant with costs, and against the plaintiff and for the second defendant with costs. The judge at the trial ordered that there should be added to the costs which the plaintiff was to recover against the first defendant the costs which he was to pay to the second defendant.

Held, that the judge had jurisdiction to make the order, for the action was properly constituted against both defendants, and if there had been any misjoinder of causes of action it was too late after verdict to apply to have the causes of action tried separately.—*BULLOCK v. LONDON GENERAL OMNIBUS CO., C.A.*, 66; 1907, 1 K. B. 264.

11. *Two defendants*—*Unsuccessful defendant to pay costs of successful defendant*—*Jurisdiction*—*Discretion*—*R. S. C. XVI. 4; LXV. 1.*—There is jurisdiction to order an unsuccessful defendant to pay the plaintiff the costs of the successful defendant so that the plaintiff may hold them as trustee for the successful defendant. But the judge has discretion, which he ought to exercise judicially, whether under the circumstances he ought to make such an order.—*MULLEN v. LONDON COUNTY COUNCIL, K.B.D.*, 82.

See also *Divorce, Light Railway.*

**COVENANTS.**—See *Lease, Mortgage.*

## CRIMINAL LAW:—

1. *Bigamy*—*Second marriage contracted abroad*—*British subject*—*Necessary averment in indictment*—*Offences Against the Person Act, 1861 (24 & 25 Vict. c. 100), s. 57.*—The prisoner was charged with bigamy, the first marriage taking place in England, and the second at Gibraltar. The indictment was framed under the Offences Against the Person Act, 1861, s. 57, which did not apply unless the prisoner was a British subject. The indictment did not aver that he was a British subject, though it was found as a fact that he was. The question for the court was whether the conviction ought to be quashed on that ground.

Held, that the conviction must be affirmed.—*REX v. AUDLEY, C.C.R.*, 146; 1907, 1 K. B. 383.

2. *Obscene literature*—*Advertisements by foreigners*—*Procuring publication*—*Accessories and Abettors Act, 1861 (24 & 25 Vict. c. 91), s. 8.*—An editor who inserts in his newspaper advertisements from foreigners resident abroad for the sale of obscene literature is liable to be convicted for procuring to be sent by post obscene literature.—*REX v. DE MARNEY, C.C.R.*, 146; 1907, 1 K. B. 388.

3. *Obstructing police in execution of duty*—*Warning motor-car drivers of police trap*—*Prevention of Crimes Amendment Act, 1885 (48 & 49 Vict. c. 75), s. 2.*—Two constables were watching motor-cars driven over a measured distance in order to see whether they were proceeding at an illegal speed. The respondent gave warning of this to approaching motor-cars, which then slackened speed. There was no evidence that the respondent was acting in concert with any of the drivers, or that any car, when the warning was given, was going at an illegal pace.

Held, that the respondent was not guilty of the offence of obstructing the constables when in the execution of their duty within the meaning of section 2 of the Prevention of Crimes Amendment Act, 1885.—*BASTABLE v. LITTLE, K.B.D.*, 49; 1907, 1 K. B. 59.

See also *Extradition, False Imprisonment, Justices.*

**COUNTY COURT.**—See *Costs, Pawnbroker.*

## DISTRESS:—

1. *Bailiff*—*Distress for sum not exceeding £20*—*Costs of levy*—*Special agreement by landlord to pay bailiff commission on amount realized by levy*—*Distress (Costs) Act, 1817 (57 Geo. 3, c. 93), ss. 2, 3*—*Distress for Rates Act, 1849 (12 & 13 Vict. c. 14), s. 1.*—Held (Darling, J., dissentiente), that an agreement by a landlord with a bailiff that the latter should retain out of the proceeds of the levy—which was for a sum not exceeding £20—a commission over and above his statutory charges, did not come within section 2 of the Distress (Costs) Act, 1817, and the justices were not bound to order and adjudge treble the amount of the moneys alleged to have been so unlawfully taken by a complainant.—*ROBSON v. BIGGAR, K.B.D.*, 249; 1907, 1 K. B. 690.

2. *Constable*—*Keeping possession of goods*—*Goods stored at police station*—*Police Act, 1890 (53 & 54 Vict. c. 45), s. 23.*—A constable executed a warrant of distress for a poor rate not exceeding £20, and removed the goods to a police station, where they were looked up in a room for five days and then sold by auction. The constable claimed from the person distrained upon the sum of 5s., being at the rate of 1s. a day for keeping possession of the goods.

Held, that the constable had kept possession of the goods and was entitled to the sum claimed.—*SCOTT v. DENTON, K.B.D.*, 82; 1907, 1 K. B. 456.

## DIVORCE:—

1. *Bill*—*Damages obtained in criminal court proceedings instituted by petitioner in Irish courts*—*Procedure*—*Copy of judgment*—*Standing Orders of the House*—*Order 177.*—On the hearing of a petition that a Bill of Divorce may be read a second time and sent to Committee, a certified copy of any judgment affecting the matter given in the Irish courts must be supplied by the registrar of such court for evidence before the House.—*GALWEY'S DIVORCE BILL, H.L.*, 306.

2. *Conduct money*—*Production of books*—*Order*—*Non-compliance*—*Motion to attach.*—Where a respondent was ordered to produce books relating to his income at his place of business for inspection by the petitioner's solicitor, on motion to attach for non-compliance with the order, it was

Held, by Bucknill, J., distinguishing *Townend v. Townend* (21 T. L. Rep. 657) and *In the Goods of Hester Harvey* (51 SOLICITORS' JOURNAL, 357), that he was not entitled to conduct money to appear on the hearing of the motion.—*JEFFRIES v. JEFFRIES, P.D. & Ad.D.*, 572.

3. *Costs*—*Jury discharged*—*Sheriff's fee.*—A cause set down in the jury list entitles the sheriff to his fee for summoning the jury, even though taken by the judge alone.—*BLACKBURN v. BLACKBURN, P.D. & Ad.D.*, 345.

4. *Cruelty*—*Corroborative evidence.*—At the hearing of a wife's suit for divorce on the ground of her husband's adultery and cruelty, it was submitted that the previous conviction of the husband for persistent cruelty by a stipendiary magistrate or the depositions of two witnesses who at that hearing gave evidence, but whose present whereabouts were unknown, was sufficient corroboration of the petitioner's evidence.

Held, that, under certain circumstances, the court would accept the conviction, but not the depositions, as corroborative evidence.—*JUDD v. JUDD, P.D. & Ad.D.*, 500; 1907, P. 241.

5. *Desertion and adultery*—*Summary Jurisdiction (Married Women) Act, 1895*—*Separation order*—*Bar.*—A wife who had obtained an order from justices for separation from her husband on account of his desertion, enforced the order, and subsequently filed a suit for divorce, on the ground of the respondent's desertion and adultery. Held, that the court could not entertain the plea of desertion.—*TAYLOR v. TAYLOR, P.D. & Ad.D.*, 515.

6. *Ireland*—*Decree nisi under the English Divorce Acts*—*Doubts as to validity of decree*—*Domicile.*—Where there are doubts as to the operation in Ireland, or elsewhere out of Ireland, of a decree under



the English Divorce Acts for the dissolution of the marriage of a domiciled Irishman, the proper course is to apply for an Act of Parliament confirming the decree and removing all doubts.—GRIMSHAW'S DIVORCE BILL, *H.L.*, 529.

7. *Judicial separation—Custody of children—Maintenance.*—Where the court granted a wife the custody of her children without limitation as to age, and subsequently in another suit defined the age of custody from sixteen to twenty-one.

Held, that in a subsequent order for maintenance the judgment of the court was retrospective, and applied to the original order for custody.—JEFFRIES v. JEFFRIES, *County Court*, 468.

8. *Judicial separation—Foreign domicile—Cross suit for divorce in foreign country—Stay of proceedings in England.*—When a petitioner, whose domicile is foreign, has commenced a suit for judicial separation in this country, she is entitled to proceed, notwithstanding that her husband has subsequently commenced proceedings for a divorce in the country of the domicile.—VON ECKHARDSTEIN v. VON ECKHARDSTEIN, *P.D. & Ad.D.*, 515.

9. *Lia pendens—Summary Jurisdiction (Married Women) Act (58 & 59 Vict. c. 39)—Desertion—Justices' jurisdiction.*—Once there is a suit pending in the Divorce Division of the High Court there can be no desertion by one party of the other, and the justices have no jurisdiction to entertain any application or make any order.—CRAXTON v. CRAXTON, *P.D. & Ad.D.*, 484.

10. *Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), s. 27—Summary Jurisdiction (Married Women) Act, 1895 (58 & 59 Vict. c. 39)—Separation order—Desertion—Statutory period.*—When a wife does not obtain the separation order from the justices until after the statutory period of desertion for two years and upwards is completed, such order is no bar to her pleading such desertion in a subsequent suit for divorce.

So held by Bucknill, J., distinguishing *Smith v. Smith* (1905, *P. 249*), *Dodd v. Dodd* (1906 *P. 189*), *Failes v. Failes* (1906, *P. 326*), *Taylor v. Taylor* (51 SOLICITORS' JOURNAL, 515), and other cases.—LETT v. LETT, *P.D. & Ad.D.*, 532.

11. *Nullity suit—Cross-examination—Admissibility of evidence.*—The petitioner in a suit for nullity cannot be cross-examined as to her alleged improper intimacy with the co-respondent in a cross-suit for divorce brought by the husband, neither can evidence be admitted to establish the facts relied on in the cross-suit. [But compare *M. (otherwise D.) v. D.* (10 *P. D.* 175).]—S. (OTHERWISE G.) v. S., *P.D. & Ad.D.*, 430; 1907, *P. 224*.

12. *Privilege—King's Proctor's intervention—Suppression of material facts—Alleged advice of solicitors—Rescission of decree nisi.*—The plea of privilege cannot be relied upon to keep back material facts from the court in a divorce suit; nor by a client who has attacked the character of her solicitors in order to prevent them from vindicating it.—LAMBERT v. LAMBERT, *P.D. & Ad.D.*, 345.

13. *Summary Jurisdiction (Married Women) Act, 1895 (58 & 59 Vict. c. 39)—Appeal—Costs.*—Where a husband successfully appealed from an order for payment of a weekly sum on desertion of a petty sessional court, the wife, who did not appear, being shown to have separate estate, was condemned in costs, without notice of the application.—DAVIES v. DAVIES, *P.D. & Ad.D.*, 412.

14. *Withdrawal of claim for damages—Notice to opposite parties—Practice.*—When no appearance has been entered by either the respondent or the co-respondent, against whom damages are claimed, by leave of court and without notice to the respondent or co-respondent the claim for damages may be withdrawn and the case transferred from the common jury to the undefended list. [But see Divorce Rule 36.]—CHAMBERLAIN v. CHAMBERLAIN, *P.D. & Ad.D.*, 357.

#### EASEMENT:—

*Way—Passage—Implied right of way—General or limited—Excessive user—Way to railway station—User by passengers.*—On an appeal from an order of Kekewich, J. (reported 50 SOLICITORS' JOURNAL, 608), restraining the defendants, their servants and agents, from passing and from licensing and inviting any persons using their railway station as travellers to pass along the passage over which the defendants claimed a right of way, an order by consent was made limiting the injunction to the licensing and inviting passengers to use the passage.—MILNER'S SAFE CO. v. GREAT NORTHERN AND CITY RAILWAY CO., *C.A.*, 81; 1907, 1 *Ch.* 208.

See also *Light*.

#### EDUCATION:—

1. *Non-provided school—Non-compliance with directions of local education authority as to religious instruction—School closed by inspector and support withdrawn—Elementary Education Act, 1870 (33 & 34 Vict. c. 76), s. 7—Education Act, 1907 (2 Ed. 7, c. 42), s. 7.*—A local education authority issued directions in respect of religious

instruction. A non-provided school within the area of the authority arranged its time-table so as to allow of the scholars being taken to church on saints' days and holy days, and in so doing infringed the directions. On the managers declining to make alterations in the time-table as required by the authority, the inspector declared the school closed and transferred the teachers, and the authority withdrew its financial support. Thenceforth the school was carried on by private subscription as a certified efficient school. The managers sued for a declaration that the directions were *ultra vires* and void, and that the school was entitled to be maintained by the authority, and also for damages for trespass and illegality on the part of the inspector.

Held, that the questions as to the directions and maintenance were to be decided by the Board of Education, by virtue of section 7, sub-section 3, of the Act of 1907; that the managers had not proved such possession as entitled them to sue for trespass; and that the inspector was entitled to transfer the teachers.—BLENCOWE v. NORTHAMPTONSHIRE COUNTY COUNCIL, *Warrington, J.*, 277; 1907, 1 *Ch.* 504.

2. *Parent of child attending public elementary school—Ascension Day—Unlawfully neglecting to cause child to attend school—"Any day exclusively set apart for religious observance"—Education Acts, 1870 and 1902.*—The father of a child attending a public elementary school was summoned for keeping his child away from school on Ascension Day.

Held, that the father, being a member of the Church of England, was justified in so doing, as the day was one observed as a religious day by the sect to which he belonged.—BELL v. GRAHAM, *K.B.D.*, 412; 1907, 2 *K.B.* 112.

3. *Public elementary school—Non-provided school—Payment for religious instruction—Liability of local education authority—"Maintenance and keep efficient"—Education Act, 1902 (2 Ed. 7, c. 42).*—The liability imposed by the Education Act, 1902, upon the local education authority to maintain and keep efficient public elementary schools includes the liability to defray the expense of denominational religious instruction in a non-provided school which is a public elementary school under the Act.—ATTORNEY-GENERAL v. WEST RIDING OF YORKSHIRE COUNTY COUNCIL, *H.L.*, 129; 1907, *A.C.* 29.

See also *Charity, School*.

#### ELECTION LAW:—

1. *District council election—Ballot papers irregularly marked.*—Objections were taken to the irregular way in which several voting papers had been marked at a district council election.

Held, that a mark, whether the prescribed cross or not, and whether placed in voting space left blank for its insertion in the voting paper or not, did not render the paper void, so long as it was clear that the voter intended to select a particular candidate by the mark he used, and did not vote for more than the maximum number of candidates to be elected.

*Per Phillimore, J.*—It would be better if voting papers were printed without a margin at the sides at all.—PONTARDARE RURAL DISTRICT ELECTION PETITION, *RE, K.B.D.*, 484; 1907, 2 *K.B.* 313.

2. *Guardian—Tie of votes—Casting "vote" by deputy returning officer—"Vote" a nullity—Petition—Costs—Municipal Corporation Act, 1882—Local Government Act, 1894—Guardians (Outside London) Election Orders, 1898, rr. 22, 31.*—Two candidates for the third place in a municipal election at Birmingham polled equal votes. The deputy returning officer elected to give a casting vote in favour of the respondent, and having done so declared him duly elected. It then turned out that by a mistake the vote of the returning officer was a nullity, because he was not on the parochial list of voters. The deputy returning officer, however, declined to alter his decision or to declare the third place vacant. The petitioner then asked that the court would declare that the respondent was not duly elected by a majority of lawful votes.

Held, that the petition must be allowed.—WATTS v. HEMMING, *K.B.D.*, 674.

3. *Parliament—Illegal payments—Payments by person not the election agent of the candidate—Payments which could properly have been made by agent and were duly vouched for in the candidate's return of expenses—Relief—Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 37), s. 23.*—Held, that although the payments were illegal, because made by a person who was not the election agent of the candidate, they were payments which could properly have been made by an agent, and having been made honestly, *bona fide*, and openly, and in ignorance of the consequences, the applicant was entitled to relief.—WORCESTER ELECTION, *RE, EX PARTE CALDICOTE, K.B.D.*, 593.

4. *Parliamentary election—Payment by candidate before agent appointed—Payment honestly made—Claim for relief.*—Where a

Parliamentary candidate honestly and in ignorance of law makes a payment to a third person which ought to have been made through the candidate's agent, he is entitled to relief under section 23 of the Illegal and Corrupt Practices Act, 1883.—*WILLIAMSON, EX PARTE, K.B.D.*, 14.

5. *Parliamentary election—University of Cambridge—Claim by peer of the realm to vote.*—The defendant, the returning officer for the University of Cambridge, refused to record the plaintiff's vote at an election of Members of Parliament for the University, on the ground that the plaintiff, being a peer of the realm, was thereby incapacitated from voting.

Held, that the returning officer's decision was right, as the case was governed by *Earl Beauchamp v. Madresfield Overseers* (L. R. 8 C. P. 245), in which the rule was laid down that "a peer of Parliament is incapacitated from voting at an election for members of the House of Commons, and is therefore not entitled to be placed on the register of voters."—*BAISTOL (MARQUIS) v. BECK, K.B.D.*, 190.

6. *Registration—Household qualification—Part of house—"Inhabitant occupier or lodger"—Resident landlord—Representation of the People Act, 1867 (30 & 31 Vict. c. 102), ss. 3, 4, 61—Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26) ss. 5, 28 (10) (11).*—On an objection to a voter being put on the list as an occupier, the revising barrister found (1) that the house, part of which was alleged to be separately occupied as a dwelling, was an ordinary dwelling-house; (2) that the immediate landlord resided in the house; (3) that such landlord was rated for the entire house as a separate tenement. The revising barrister held that these facts were *prima facie* proof of the objection within section 28 (10) of the Parliamentary and Municipal Registration Act, 1878.

Held, that the revising barrister was justified in coming to this conclusion, and that on these findings of fact the onus of proof was shifted and thrown on the person claiming the vote.

Decision of the Divisional Court (*ante*, p. 48) affirmed.—*DOUGLAS v. SMITH, C.A.*, 569; 1907, 1 K. B. 126

7. *Registration of voters—Service franchise—Coachman—Compulsory absence on duty—Representation of the People Act, 1884, s. 3—Electoral Disabilities Removal Act, 1891, s. 11.*—A coachman who occupied a cottage, belonging to his master, by reason of his service, was absent from the cottage for more than four months at a time by reason of his master's orders.

Held, that he was not entitled to be registered as a service franchise voter under the Representation of the People Act, 1884, s. 3, as he was not within the protection given by the Electoral Disabilities Removal Act, 1891.—*LARCOMBE v. SIMEY, K.B.D.*, 49; 1907, 1 K. B. 139.

#### EVIDENCE:—

*Covenant to pay rent in advance—Antecedent parol agreement to take bill at three months—Admissibility.*—A covenant by a lessee to pay the rent in advance is a covenant to pay it in cash in advance, and therefore an antecedent parol agreement that he will give bills at three months for the rent in advance is inconsistent with the covenant, and evidence of it is not admissible.—*HENDERSON v. ARTHUR, C.A.*, 65; 1907, 1 K. B. 10.

See also *Husband and Wife, Vendor and Purchaser.*

#### EXECUTOR:—

*Residue—Intestacy as to part—Next-of-kin—Advances—Hotchpot—Statute of Distributions (22 & 23 Car. 2, c. 10), s. 5—Executors Act, 1830 (11 Geo. 4 & 1 Will. 4, c. 40).*—Where there was an intestacy as to a part of residue which was vested in trustees,

Held, that the case did not fall within the operation of the Act of 1830, it being a gift to trustees upon certain trusts, and that, therefore, the implication of law in favour of the executors was excluded, and that the doctrine of hotchpot did not apply in the distribution of such part among the persons entitled under the Statute of Distributions.

*Williams v. Arkle* (24 W. R. 215, L. R. 7 H. L. 606) followed.—*ROBY, RE, HOWLETT v. NEWINGTON, Neville, J.*, 499; 1907, 2 Ch. 84.

See also *Limitations, Statute of.*

#### EXTRADITION:—

1. *Claim by French Government—Order made by magistrate—Plea raised by prisoner that he was born of British parents—Onus on Crown to prove that prisoner's father had by residence abroad lost his British nationality—Habeas corpus—Extradition Act, 1870.*—The applicant for a rule nisi for a habeas corpus had been sentenced by a French court and sent to a penal settlement on the coast of French Guiana. He escaped and got to England. On an application by the French Government a magistrate ordered his extradition. The prisoner, in resisting the order for extradition, pleaded he was the son of British parents, and obtained a rule nisi for habeas corpus. The rule came on for argument.

Held, that the onus was on the Crown to shew that the prisoner's

father had abandoned or lost his nationality by residence abroad, and there being no satisfactory evidence to that effect, the prisoner's plea was a good defence, and he must be discharged.—*REX v. BRIXTON PRISON (GOVERNOR), EX PARTE GUERIN, K.B.D.*, 571.

2. *German subject—Sentence of four years—Imprisonment causing danger to life—"Discharged" from hospital—Period of freedom—After period of sentence had expired prisoner called on to return and do the rest of his term of imprisonment—Extradition treaty with Germany, 1872, arts. 4, 5.*—C. was convicted in May, 1903, in the German courts of offences which would have amounted to larceny under section 76 of the Larceny Act, 1861, and was sentenced to four years' imprisonment, which in the ordinary course of events would have meant his release at the end of 3½ years. He served part of his sentence, became very ill and was sent into hospital, and was "discharged" from hospital in February, 1905. In October, 1905, C. was called upon to complete his period of imprisonment under the sentence, as he was then well again. In March, 1907, application was made for his extradition.

Held, that there was no sufficient cause shewn why the order for extradition should be set aside, and therefore the rule must be discharged.—*REX v. BRIXTON PRISON (GOVERNOR), EX PARTE CALBERLA, K.B.D.*, 721.

#### FALSE IMPRISONMENT:—

*Signing charge-sheet at police station—Detention in custody—Evidence of authority to detain.*—The mere signing of the charge-sheet at the police station is of itself no evidence, where the person so signing has not authorized the arrest, of authority to detain the accused in custody.—*SEWELL v. NATIONAL TELEPHONE CO., C.A.*, 207; 1907, 1 K. B. 557.

#### FISHERY:—

1. *Angling—Taking fish by means of "night lines" during the day time—Lines used seized by keeper—Larceny Act, 1861 (24 & 25 Vict. c. 96), ss. 24, 25.*—The owner of private water permitted the public to fish there for salmon and trout except at night. The respondents were found taking fish during the day time caught with a night line. The keeper seized the line and the men threw the fish away. The respondents were summoned under section 24 of the Larceny Act, 1861. The magistrates refused to convict, on the ground that, the night lines having been seized by the appellant, the respondents by the proviso in section 25 of the Act of 1861 were exempted from any further penalty.

Held, that the magistrates ought to have convicted.—*BARNARD v. ROBERTS, K.B.D.*, 411.

2. *Riparian owner—Grant of lands bounded by a river—Construction—Presumption of right to bed of river ad medium flum aquæ—Evidence to rebut the presumption—Tidal waters—Definition of ordinary high tide.*—A riparian owner on one bank claimed the exclusive right to the whole bed of a river and of the fishery therein as lord of the manor and also by user from time immemorial. The riparian owner on the opposite bank disputed the claim and brought an action for an injunction against trespass.

Held, that the plaintiff having acquired his lands, which were not part of the said manor, by grants, in which the right to half the bed of the river and the fishing rights over such half would be presumed, the defendant's evidence was insufficient in the action to establish his exclusive right to the whole bed of the river or the fishery therein. An ordinary high tide is taken at the point of the line of the medium high tide between the springs and neaps, ascertained by taking the average of the medium tides during the year.—*TRACEY ELLIOT v. MORLEY, Joyce, J.*, 625.

FOOD AND DRUGS.—See *Adulteration.*

#### FRIENDLY SOCIETY:—

*Members to be members of a particular institution—Member expelled from that institution—Right of friendly society to require his resignation—Friendly Societies Act, 1896, s. 9.*—A friendly society was founded, the members of which were exclusively to be drawn from members of a certain institution. The plaintiff, a member of both, was expelled from the institution, and his name was thereupon struck off the list of members of the friendly society. In an action to be reinstated a member,

Held, on appeal, that, it being a precedent condition to membership that the member should also be a member of the institution, the action had rightly been dismissed.—*SARGEANT v. BUTTERWORTH, K.B.D.*, 429.

#### GAMING:—

1. *Cheque—Illegal consideration—Gaming abroad—Gaming legal by foreign law—Action on cheque—Gaming Acts, 1710 (9 Anne c. 14) s. 1; and 1835 (5 & 6 Will. 4, c. 41), s. 1.*—The defendant borrowed a sum of money from the plaintiff, who was a foreigner, at a place abroad, where baccarat was legal, in order to pay for his losses at baccarat and to enable him to continue playing, and he gave the



plaintiff his cheque drawn upon a London bank for the amount of the loan. In an action on the cheque,

Held (by Collins, M.R., and Cozens-Hardy, L.J., Fletcher Moulton, L.J., dissenting), that the action was not maintainable.—*MOULIS v. OWEN, C.A.*, 306; 1907, 1 K. B. 746.

2. *Lottery—Keeping place for lottery—User on one occasion only—Gaming Act, 1802 (42 Geo. 3, c. 119), s. 2.*—A person who holds a lottery in a place on one isolated occasion does not thereby "keep" such a place for exercising a lottery within the meaning of section 2 of the Gaming Act, 1802. To bring a case within the section there must be something like an habitual keeping of the place for the purpose.—*MARTIN v. BENJAMIN, K.B.D.*, 60; 1907, 1 K. B. 64.

3. *Lottery—Newspaper—Distribution of medals gratuitously—Winning medal announced in newspaper—Gaming Act, 1802 (42 Geo. 3, c. 119).*—The proprietor of weekly newspaper caused medals to be distributed each medal bearing a number. One of the medals selected arbitrarily was the winner of a prize, and the number of this medal was announced in the newspaper. The persons distributing the medals did not sell the newspaper, and there was no condition that a person holding a medal must purchase a copy of the paper to entitle him to a prize, the object of the scheme being simply to advertise the paper.

Held, that this was a lottery within the Gaming Act, 1802, notwithstanding that nothing was charged for the medals.—*WILLIS v. YOUNG, K.B.D.*, 28; 1907, 1 K. B. 448.

4. *Principal and agent—Betting transaction—Bookmaker or turf commission agent—Account rendered—Evidence of money received—Right of principal to recover.*—The plaintiff sued under order 14 to recover a sum of money shewn due to him from the defendant for certain bets which he had instructed the defendant to make for him. The defendant, who carried on business as a turf commission agent, pleaded the Gaming Acts, and on his affidavit obtained leave to defend the claim. At the trial the defendant did not appear.

Held, that the plaintiff was entitled to judgment, as the rendering of a commission account was *prima facie* evidence that the money had been received by the defendant on behalf of the plaintiff.—*CATIGI v. M'GREGOR, K.B.D.*, 266.

#### HARBOUR:—

"Port"—*Dues on vessels loading in the port—Port of Carnarvon*—"Within the limits of the said port"—*Carnarvon Harbour Acts, 1793 (33 Geo. 3, c. cxxiii.), s. 16; and 1809 (49 Geo. 3, c. xxiv.), Schedule A.*—Under two private Acts passed in 1793 and 1809 the predecessors of the appellants were authorized to construct a dock or quay known as Port Dinorwic, which was within the area covered by the Port of Carnarvon, for the purpose of loading and unloading vessels taking slate from certain quarries belonging to the appellants. Up to a few years ago the appellants or their predecessors paid dues to the trustees of the Port of Carnarvon. The appellants, however, claimed that their dock was not within the "limits of the Port of Carnarvon," and that rates and dues ought not to have been paid and were not now payable.

Held, dismissing the appeal, that the decision of the Court of Appeal, deciding against the appellants' contention was right and must be affirmed.—*ASHETON SMITH v. OWEN, H.L.*, 356; 1907, A. C. 124.

#### HIGHWAY:—

1. *Ditch alongside public highway—Dedication of ditch as part of highway—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 150.*—The Divisional Court having held that a ditch alongside a public road could in law be dedicated as part of the public highway, the point that it could not be so dedicated was substantially, though not formally, abandoned in the Court of Appeal, the court saying that it was untenable.

Decision of the Divisional Court (1906, 2 K. B. 612) affirmed.—*CHORLEY CORPORATION v. NIGHTINGALE, C.A.*, 625.

2. *Light locomotive—Motor omnibus—"Smoke"—Using a locomotive not consuming as far as possible its own smoke—Smoke due to negligence of driver only—Highways and Locomotives Amendment Act, 1878, s. 30—Locomotives on Highways Act, 1896, ss. 1, 6—Motor-car Act, 1903, s. 12.*—The appellants were the owners of a motor omnibus so constructed as to consume as far as possible its own smoke, and they were summoned for causing a nuisance on the highway by the smoke emitted from the motor omnibus, owing to the negligent way in which the driver had oiled the machinery. The magistrate convicted.

Held, allowing the appeal, that the motor omnibus being a light locomotive within the meaning of section 1 of the Locomotives on Highways Act, 1896, section 30 of the Highways and Locomotives Amendment Act, 1872, under which the complaint was made, did not apply.—*STAR OMNIBUS CO. v. TAGG, K.B.D.*, 467.

3. *Repair—Alteration and making up by local authority—Orders for payment of money—Unnecessary expenditure—Public road adapted*

for motor-car racing—*Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 149.*—The court will not interfere with the discretionary exercise by a local authority of the powers as to paving or altering a road, conferred upon them by section 149 of the Public Health Act, 1875, where such discretion has been exercised in good faith for the purposes of the Act.—*REX v. BRIGHTON CORPORATION, C.A.*, 409.

4. *Repair of county bridge on—Right to take stones from bed of river—River flowing between enclosed lands—Whether a river is "enclosed land"—Highway Act, 1835 (5 & 6 Will. 4, c. 50), ss. 51 to 55—4 & 5 Vict. c. 51.*—A river flowing between fields that are enclosed, belonging to the same owner, is "enclosed land or ground" within the meaning of sections 51 and 53 of the Highway Act, 1835.—*ALLINSON v. CUMBERLAND COUNTY COUNCIL, K.B.D.*, 532.

5. *Subsidence caused by working mines—Measure of damages—Cost of restoring to original level.*—The defendants were owners of mines under a highway which was vested in the plaintiffs as urban authority. While lawfully working their mines they caused a substantial subsidence in the soil of the highway. In an action brought by the plaintiffs to recover damages from the defendants in respect of the subsidence,

Held, reversing Jelf, J. (1905, 2 K. B. 823), that the measure of damages was the cost of restoring the highway to its original level.—*WEDNESBURY CORPORATION v. LODGE HOLES COLLIERY CO., C.A.*, 65; 1907, 1 K. B. 78.

See also *Negligence*.

#### HUSBAND and WIFE:—

*Matrimonial suit—Married Women's Property Act, 1882 (45 & 46 Vict. c. 75), s. 17—Summons—Practice.*—The court has power to supplement evidence by affidavit by oral evidence, notwithstanding an agreement of the parties before the registrar to dispense with oral evidence, and although the report of the registrar is not being appealed against.—*B. v. B., P.D. & Ad.2.*, 430.

#### INFANT:—

*Maintenance—Property held by administrator—Conveyancing Act, 1881 (44 & 45 Vict. c. 41), s. 43.*—An administrator, holding property that belongs to an infant, holds it as "trustee" within the meaning of section 43 of the Conveyancing Act, 1881, and therefore may apply the income thereof for the infant's maintenance.—*ADAMS, RE, VERRIER v. HASKINS, Kekewich, J.*, 113.

#### INSURANCE:—

1. *Life—Insurance effected on sister's life in name of the assured—"Person interested"—Illegality of contract—Insurances Upon Lives Act, 1774 (14 Geo. 3, c. 48), ss. 2, 3.*—The plaintiff insured the life of his sister with the defendant company, but the policy purported to be signed by the sister only, and his name did not appear in that document. On a claim to recover the amount of the policy, heard in the county court, judgment was entered for the plaintiff.

Held, allowing the appeal of the company, that the name of the plaintiff, who admittedly was the person interested in the policy, not appearing in the policy, the action could not be maintained.—*FORGAN v. PEARL LIFE ASSURANCE CO., K.B.D.*, 230.

2. *Marine—Payment of loss by insurer due to misrepresentation—Payment by reinsurer to insurer—Recovery of damages—Subrogation—Diminution of loss—Right of reinsurer to repayment.*—Insurance effected on certain shipments of lumber, excepting shipments by a named firm. Owing to misrepresentation of some one in the insurance broker's office the insurers insured and paid a loss on certain of the excepted shipments. The reinsurers paid the insurers £1,354, the amount due to the latter in respect thereof. During investigations in respect to an action the insurers found out that the excepted shipments had been declared insured, and losses thereon settled. The insurers claimed and recovered damages in respect of the misrepresentation. The reinsurers claimed that, as that amount had been received in diminution of the loss by the insurers, the reinsurers were entitled to be repaid the amount they had paid the insurers.

Held, that the money was received by reason of the enforcement of a right which diminished the insurers' loss, and the reinsurers were entitled to recover, but that the insurers were entitled to deduct whatever were the reasonable expenses of recovering the sum.—*ASSICURAZIONI GENERALI DE TRIESTE v. EMPRESS ASSURANCE CORPORATION, K.B.D.*, 703.

3. *Marine—Policy on disbursements—Warranted free of capture, seizure, and detention and the consequences of hostilities—Contraband—Collision with ice causing leaks—Capture—Beaching of vessel because of leaks twenty-four hours after capture—Divesting of property—Prize Court.*—Where a neutral vessel carrying contraband is captured by a belligerent, and is subsequently condemned by a Prize Court, the property in it passes to the captors as from the time of capture. Accordingly where the vessel has to be beached twenty-four hours after capture by reason of leaks sustained by perils of the seas

prior to the capture, and becomes a total loss, and is condemned, the assured cannot recover against underwriters for a total loss by perils of the seas under a policy on disbursements if the policy is warranted free of capture, seizure, and detention, for the property has passed from him and the vessel is already lost to him before the stranding takes place. Mere capture without condemnation by the Prize Court does not divest the property in the ship.—*ANDERSEN v. MARTEN, K.B.D., 515; 1907, 2 K. B. 248.*

4. *Marine—Reinsurance—Construction—Port or ports, place or places.*—A vessel was reinsured against certain perils "whilst at port or ports, place or places in New Caledonia." The vessel struck on a reef whilst passing through a passage through the barrier-reef of New Caledonia, about ten miles from the mainland and from Néhoué.

Held, that when the loss occurred the vessel had not arrived at a port or place in New Caledonia within the meaning of the policy.—*MARITIME INSURANCE CO. v. ALIANZA INSURANCE CO., K.B.D., 674.*

5. *Marine—Value of goods—Open cover—"Invoice cost plus freight and insurance plus 10 per cent."—Loss before declaration—"Contingency freight if required at half premium."*—Held, that the loss having occurred before the assured declared the shipment under the open cover, in assessing the insured value of the goods, the word freight in the clause in the open cover "and/or freight" and "invoice cost plus freight" meant freight, as distinguished from contingency freight, which at the time of the loss the assured had become liable to pay, and not the freight which would have become payable at destination on the whole cargo if the whole had been delivered.—*KING v. METHUEN, K.B.D., 69.*

6. *Marine—Valued policy on ship—Total loss—Sum insured less than value in policy—Damages recovered from ship in fault—Division between shipowner and underwriters.*—A ship was insured for £1,000, her value in the policy being stated to be £1,350. She was sunk by a collision with another ship, and the latter ship was pronounced to blame. The value of the insured ship was assessed at £1,000, and this sum the wrongdoing ship paid into court. The underwriters, who had already paid the £1,000 to the owners of the insured ship for a total loss, claimed to be entitled to the £1,000 paid into court.

Held, that the owners of the insured ship were in the position of having been their own insurers for £350, and were entitled to <sup>£350</sup> £350 of the £1,000.—*"COMMONWEALTH," THE, C.A., 386; 1907, P. 216.*

7. *Jurisdiction—Summons—Binding over complainant as well as defendant.*—Justices have no jurisdiction to make an order binding over a complainant to be of good behaviour, where no formal charge is preferred against him and where the order omits to aver that the defendant went in bodily fear.—*REX v. CARMARTHENSIRE JUSTICES, K.B.D., 114.*

See also Divorce, Licensing Law, Police.

## LANDS CLAUSES ACT.

1. *Compensation for injuriously affecting lands—Lands taken by tramway company to widen a street, but not used as a tramway—Depreciation in value of the property severed and not taken.*—A tramway company, under the powers of a private Act, which incorporated the Lands Clauses Consolidation Act, 1845, and the Tramways Act, 1870 (33 & 34 Vict. c. 70), took a strip of land from the land owned by an adjoining owner for the purpose of widening the street, without any intention to run tramways over the part taken. Injury was caused to the part not taken both by the widening of the street and the tramway.

Held, that the adjoining owner was entitled to compensation under the Lands Clauses Consolidation Act, 1845, s. 63.

*The King v. Mountford (1906, 2 K. B. 814) and Horton v. Colwyn Bay (1907, 1 K. B. 14) distinguished.*—*TAYLEUR v. DOLTER ELECTRIC TRACTION (LIMITED), Joyce, J., 702.*

2. *Copyholds—Enfranchisement—Fines—Land Clauses Act, 1845 (8 & 9 Vict. c. 18), ss. 95, 96, 97.*—Copyholds conveyed to a railway company by a conveyance subsequently enrolled under section 95 of the Lands Clauses Act pass as freeholds on enrolment, but nevertheless until enfranchisement by the company they continue subject to fines payable on the deaths of the vendor and his successors before or after enrolment, and these fines must be included in the compensation for enfranchisement.—*LORD LECONFIELD v. LONDON AND NORTH-WESTERN RAILWAY CO., Swinfen Eady, J., 27; 1907, 1 Ch. 38.*

## LEASE:—

*Covenants—Underlease of part of property and covenant to perform the covenants in the head lease relating to the property sub-leased—Collateral covenants—Covenants which do not bind assignees not named.*—In a lease executed in 1820 there was a covenant by the lessee to keep all buildings on the land in good repair, and a proviso for re-entry on breach of that covenant. That lease was assigned in

1886 to one B., who demised part of the land to one H., and in that indenture of lease there were three covenants: (1) a covenant by the lessor (H.) with the lessee for quiet enjoyment; (2) a covenant for the performance by the lessor of the several covenants contained in the lease of 1820; and (3) a covenant of indemnity. In 1903 the plaintiff D. became the assignee of the underlease for the residue thereof. In 1904 a company acquired the reversion created by the head lease of 1820, and subsequently the defendant G. acquired the land demised by the lease of 1820.

It was admitted that the defendant had broken the lessor's covenant in the underlease of 1886 in not repairing the buildings on the land demised, and the company sued him for possession and obtained judgment. The plaintiff was ejected under that judgment.

In an action by the plaintiff against the defendant,

Held, that the covenants entered into with the plaintiff were not such covenants as would pass with the reversion of the land and bind assignees not named, and therefore that the plaintiff could not recover damages against the defendant.

*Doughty v. Bowman (11 Q. B. 444) considered.*—*DEWAR v. GOODMAN, K.B.D., 189; 1907, 1 K. B. 612.*

## LETTERS:—

*Right to use—Property in—Right of publication—Right to publish information derived from contents—Letters obtained without permission of the writer or his personal representative—Injunction—Quia timet action.*—The lawful possession of letters confers all the rights incident to property consistent with that possession, including the right to make any use of the contents which does not infringe the right of the writer or his personal representative to prohibit publication by multiplication of copies or paraphrases of the letters or extracts from them. Cases where the recipients or possessors of letters have been restrained from divulging the contents discussed.

*Semble*, a breach of confidence by the recipient in regard to letters will not alone give the writer a right to relief against the use of letters by third parties in whose hands the letters may have come. Observations on relief by way of *quia timet*.

Mr. and Mrs. P. having come into lawful possession of letters written by W. to third parties,

Held, that the defendants, disclaiming the right to print and publish the letters or extracts from them, were entitled to use the information contained in the letters for the purpose of writing a biography of W.—*PHILIP v. PENNELL, Kekewich, J., 719.*

## LIBEL:—

1. *Practice—Interrogatories—Fair comment—Malice.*—In an action against the proprietors of a newspaper for libel, the defendants pleaded (*inter alia*) that the words complained of were fair comment, upon which the plaintiffs joined issue. The defendants administered the following interrogatory to the plaintiffs: "Do you intend to set up that the defendants in publishing the words complained of were actuated by express malice towards the plaintiffs? If yes, state generally the facts and circumstances on which the plaintiffs rely as shewing actual malice."

Held, that the interrogatory ought not to be allowed.

*Cooper v. Blackmore (2 Times L. R. 746) not followed.*—*LEVER BROTHERS v. ASSOCIATED NEWSPAPERS (LIMITED), C.A., 606.*

2. *Practice—Particulars—Fair comment—Particulars as to truth of statements.*—In an action for libel where there is no plea of justification but only a plea of fair comment, the plaintiff is not entitled to further and better particulars as to whether the defendants alleged that any of the statements commented on were untrue, and, if so, which of them.—*DIGBY v. FINANCIAL NEWS (LIMITED), C.A., 98; 1907, 1 K. B. 502.*

See also Practice, Privilege.

## LICENSING LAW:—

1. *Certiorari—Licensing justices—Alleged bias on part of justices—Discretion of justices—"They must act honestly"—Licensing Act, 1904 (4 Ed. 7, c. 23), s. 1—Alehouse Act, 1828 (9 Geo. 4, c. 61), s. 1—Beerhouse Act, 1840 (3 & 4 Vict. c. 61), s. 1.*—Where justices acting honestly have granted licences to persons who in their discretion are fit and proper persons to apply for such licences, the validity of such licences cannot be impeached; although the licensees may be persons who are not "keeping or being about to keep" an inn, alehouse, or victualling house within section 1 of the Alehouse Act, 1828.

A beerhouse licence, if granted under section 1 of the Beerhouse Act, 1840, to a person who is not the real resident holder and occupier of the house, is not void.

*Semble*, a certiorari will not lie to bring up the determination of licensing justices at the general annual licensing meeting granting or refusing a licence, their determination not being a judicial, but an administrative act.

*Per Loreburn, C.*—A *bond fide* arrangement between the owners of public-houses and members of the licensing committee for the



suppression of licences under section 1 of the Act of 1904 is a legitimate way of carrying out the intention of the Act.—**LEEDS CORPORATION v. WOODHOUSE, H.L.**, 716.

2. *Compensation charges—Year for which levied—Licence—Excise licence—Licensing Act, 1904* (4 Ed. 7, c. 23), s. 3, sub-sections 1, 2.—The charges, payable under section 3, sub-section 1, of the Licensing Act, 1904, to constitute a fund to compensate persons the renewal of whose licences have been refused by quarter sessions under section 2 of the said Act, are paid in respect of the year 5th of April to the 5th of April.—**HORTON v. PENN, K.B.D.**, 249; 1907, 1 K. B. 561.

3. *Compensation fund—Hotels with bars above the rateable value of £25—Licence merely auxiliary—Licensing Act, 1904, Schedule I.*—Hotels with bars above the rateable value of £25 do not come within the exemption in Schedule I. of the Licensing Act, 1904, and are liable to be assessed on the full and not the reduced rate to the compensation fund.—**REX v. BEDFORD JUSTICES, K.B.D.**, 28.

4. *Licence, grant of—Confirming authority—Monopoly value—Evidence not on oath—Licensing Act, 1904* (4 Ed. 7, c. 23), s. 4.—Upon an application for a new on-licence the justices made a grant fixing the monopoly value at £2,250. The confirming authority on the report of their value not on oath fixed the monopoly value at £5,000, and made an order that the licence should be confirmed and that the conditions attached to the licence under section 4 of the Licensing Act, 1904, should with the consent of the licensing justices be varied by fixing the monopoly value at £5,000. The licensing justices refused to consent. The applicant applied for a *mandamus* to the confirming authority to deliver a certificate of confirmation of the licence or for a *mandamus* to hear and determine the application for confirmation.

Held, affirming the decision of the Divisional Court (51 SOLICITORS' JOURNAL, 28), that the confirmation was conditional upon the consent of the licensing justices to the increase of monopoly value.—**REX v. JACKSON, C.A.**, 130.

5. *Renewal of licence—Refusal—Appeal—Differentiation—Evidence—Licensing Act, 1872, s. 42—Licensing Act, 1904, s. 1* (2).—On an appeal from the refusal of the licensing justices to renew a licence the court will not interfere with the discretion of the justices if there was any evidence before them of differentiation.—**REX v. JOHNSON, K.B.D.**, 29.

6. *Renewal of licence—Refusal—Compensation authority—Whole body of justices—Majority—Licensing Act, 1904, ss. 1, 5, 8.*—Where the whole body of justices as the compensation authority do not delegate their powers to a committee and there are no rules fixing a quorum, at least a majority if not the whole body of justices who are qualified must attend and act at the meetings of the compensation authority.—**REX v. LEEDS JUSTICES, K.B.D.**, 50.

#### LIGHT:—

1. *Prescription—Amount of light—Nuisance—Damages in lieu of injunction.*—In an action for an injunction to restrain interference with the access of light to the plaintiff's premises the Court of Appeal granted damages in lieu of an injunction.

Held by the House of Lords, affirming the decision of the Court of Appeal (1906, 1 Ch. 480), that on the facts the interference was such as to constitute a nuisance.—**JOLLY v. KINE, H.L.**, 11; 1907, A. C. 1.

2. *Prescription—Dominant and servient tenements held under common landlord—Prescription Act, 1832* (2 & 3 Will. 4, c. 71), s. 3—*Implied grant—Conveyancing and Law of Property Act, 1881* (44 & 45 Vict. c. 41), s. 6—*Building scheme—Perpetuity.*—Where two adjoining tenements are held by different lessees under a common landlord, and one lessee has enjoyed the access and use of light in respect of his tenement for a period of twenty years without interruption, he acquires, under section 3 of the Prescription Act, 1832, an absolute and indefeasible right to light as against the other tenement, and this right enures in favour of that lessee's successors in title, not only as against the adjoining lessee, but as against the common landlord and all succeeding owners of the adjoining tenement.—**MORGAN v. FEAR, H.L.**, 702

#### LIGHT RAILWAYS:—

1. *Arbitration—Taxation of costs—Taxation by master—Jurisdiction to review.*—Where an order under the Light Railways Act, 1896, incorporates the Lands Clauses Acts, and on a submission to arbitration under the Light Railways Act the arbitrator awards costs to be paid by one of the parties, either party can require, under the Lands Clauses (Taxation of Costs) Act, 1895, s. 1, that the costs shall be taxed by a master of the Supreme Court, in which case the master would tax as a *persona designata*, and his decision would not be open to review.—**CANNINGS (LIMITED) AND MIDDLESEX COUNTY COUNCIL, RE, C.A.**, 45; 1907, 1 K. B. 51.

2. *Local government—Rating—"Used only as a railway"—Light*

*Railways Act, 1896* (59 & 60 Vict. c. 48), s. 12, sub-sections 1, 2.—*Public Health Act, 1875* (38 & 39 Vict. c. 55), s. 211, sub-section 1 (b).—Section 12 (2) of the Light Railways Act, 1896, applies to light railways enactments in statutes which deal not with any particular railway, but speak of railways in general, though they deal with other subject-matter as well as railways, as, for example, section 211, sub-section 1 (b), of the Public Health Act, 1875. Inasmuch as the rateability of a light railway is based on the exclusive user for the purposes of a railway of the railway lines, the fact of the lines being laid along a public road does not prevent the land being used only for the purposes of a railway, so as to deprive it of the benefit of the exemption given by sub-section 1 (b) of section 211.—**WAKEFIELD LIGHT RAILWAY CO. v. WAKEFIELD CORPORATION, C.A.**, 387; 1907, 2 K. B. 256.

3. *Purchase by municipal authority—Special arrangement—Construction—Basis of valuation—Dudley and District Light Railway Order, 1898.*—By an agreement made between a certain company and the corporation it was agreed that the company should construct a light railway, No. 5, proposed to be authorized by an order under the Light Railways Act, 1896, and that at the expiration of four years the corporation should purchase all the tramways in the borough and also the light railway No. 5 "at a price to be settled in case of difference" by the Board of Trade, and after such purchase should lease them for a period of twenty-one years to the company. The said order was confirmed, and provided, *inter alia*, for the purchase of railway No. 5 "at the time and in the manner provided by" the agreement. Swinfen Eady, J., held that the proper basis of valuation was that which regarded the railway as a railway fixed in position and capable of earning a profit, and not that which regarded the railway as an income-earning concern. The Court of Appeal reversed that decision, holding that the proper basis was that which regarded railway No. 5 as an income-earning concern, and not merely as a railway *in situ* capable of earning a profit.

Held, on appeal (Lord Collins dissenting), that the true construction of the agreement and order was that adopted by Swinfen Eady, J., and that his judgment must be restored.—**DUDLEY, STOURBRIDGE, AND DISTRICT ELECTRIC TRACTION CO., RE, H.L.**, 686.

#### LIMITATIONS, STATUTE of:—

*Executor not pleading—Right of devisee to plead—Mortgage—Payment of interest by devisee—Keeping debt alive against the whole estate.*—*Cestuis que trustent* of specifically devised real estate may plead the statute, notwithstanding that the statute has not been pleaded by the executor, and that the debt is the foundation of a judgment for administration.

Payment of interest upon a mortgage debt by the devisee of the mortgaged property does not keep the debt alive against the whole estate of the testator.—**LACY, RE, HOWARD v. LIGHTFOOT, Kekewich, J.**, 67; reversed, 1907, 1 Ch. 330.

See also Mortgage.

#### LOCAL GOVERNMENT:—

1. *Adjustment—Loss of profitable area—Formation of county borough—Adjustment between county council and county borough council—Local Government Act, 1888* (51 & 52 Vict. c. 41), s. 32.—The Borough of West Hartlepool, in the County of Durham, was constituted a county borough by a provisional order duly confirmed. The provisional order provided for an adjustment respecting financial relations between the county and the borough. In an arbitration held for the purpose of effecting such adjustment, the county council made claims against the borough council on the ground that, as regarded certain of the county council's expenses, the contributions from the area of the borough which had ceased to be payable exceeded the proportion (if any) of such expenses from which the county council had been relieved; and the borough council made claims against the county council on the ground that, as regarded certain expenses, the burden cast on the borough exceeded the amount of contributions towards such expenses from which the borough had been relieved. The Court of Appeal held that the claims were matters in respect of which the arbitrator had jurisdiction under section 32 of the Local Government Act, 1888, to make an adjustment, and they distinguished the present case from *Caterham Urban Council v. Godstone Rural Council* (1904, A. C. 171). The corporation appealed.

Held, allowing the appeal, that, in the adjustment of the financial relations between the newly constituted county borough and the old county, no compensation was due from one side to the other in respect of contributions to the severed area.

Per Lord Atkinson and Lord Collins, the decision of this House in the *Caterham case* (*supra*) did apply, and governed the present case.—**DURHAM COUNTY COUNCIL AND WEST HARTLEPOOL CORPORATION, RE, H.L.**, 550.

2. *Audit of accounts—Surcharges—Public Health Act, 1875* (38 &

39 Vict. c. 55), s. 247.—A rule for a *certiorari* was obtained under section 247 of the Public Health Act, 1875, to quash certain surcharges made by a district auditor of the Local Government Board.

Held, that the decision of the auditor was wrong on the evidence before him, and that, there being jurisdiction to review his decision, both on matters of fact and in law, the rule for the *certiorari* must be made absolute. An auditor, if not satisfied, is entitled to investigate any item submitted to him, and if acting *bona fide* he comes to a fallacious decision, he is nevertheless entitled to receive his costs, in shewing cause against a rule for a *certiorari*, out of the rates.—*REX v. ROBERTS, K.B.D.*, 467.

3. *Compensation—Damage caused by exercise of statutory powers—Sewage works—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 308.*—A local authority under their statutory powers laid sewers through the claimant's land. The sewers were connected with sewage works constructed by the local authority on adjoining land which never belonged to the claimant. The claimant's land was depreciated in value by reason of the contemplated user by the local authority of the sewage works.

Held, that the claimant was not entitled to compensation for such depreciation, notwithstanding that the sewage works and the sewers laid under his land formed one system of sewerage.—*HORTON v. COLWYN BAY URBAN COUNCIL, K.B.D.*, 69; 1907, 1 K. B. 14.

4. *Compromise of claims—Creation of urban district—Subtraction of parish from rural district—Loss of income—Matters requiring adjustment—Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 62.*—It is no ground for setting aside a compromise by a public body that the claim or one of the claims, the subject of the compromise, was not well founded in law, provided such claim is put forward *bona fide*.—*HOLSWORTHY URBAN COUNCIL v. HOLSWORTHY RURAL COUNCIL, Warrington, J.*, 445; 1907, 2 Ch. 62.

5. *"Officer"—Abolition of office—Compensation—Solicitor to board of guardians—Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 100, 120.*—A solicitor was employed by a board of guardians on each occasion when it was necessary to employ a solicitor. He was not formally appointed solicitor to the guardians and was not paid by a salary, but was paid the usual solicitor's charges for work done in connection with each particular matter. By an Act the guardians were abolished, their district being absorbed in another district, and the Act gave "officers" who suffered direct pecuniary loss therefrom a right to compensation within the meaning of section 120 of the Local Government Act, 1888.

Held, that the solicitor was not an "officer" within the definition in section 100 of the Local Government Act, 1888, and was therefore not entitled to compensation.—*CARPENTER and BRISTOL CORPORATION, RE, C.A.*, 589.

6. *Rivers Pollution Prevention Act, 1876, Part III., ss. 6, 13—Notice of intention to take proceedings—Consent of Local Government Board.*—The consent of the Local Government Board to proceedings under Part III. of the Rivers Pollution Prevention Act, 1876, must be obtained before notice of intention to take proceedings is served on the offender.—*WEST RIDING OF YORKSHIRE RIVERS BOARD v. ROBINSON BROTHERS, C.A.*, 207.

7. *Sewer—Single private drain—Connected with public sewer by single private drain—Liability to repair—Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 4, 41—Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), s. 19.*—Where houses are connected with a public sewer, not by a single private drain, but by a sewer discharging into a single private drain and thence into the public sewer, they are not "connected with a public sewer by a single private drain" within the meaning of section 19 of the Public Health Acts Amendment Act, 1890.—*WOOD GREEN URBAN COUNCIL v. JOSEPH, C.A.*, 112; 1907, 1 K. B. 182.

#### LONDON:—

1. *Building—Height of building—New street—Building at corner of two streets—Building erected on the site of a new street—Laches—London Building Act, 1894 (57 & 58 Vict. c. cxxiii.), ss. 5, 49, and 62.*—A building may have more than one front external wall, and in considering the "height," as defined in section 5 (21) of the London Building Act, 1894, of a building alleged to infringe the provisions of that Act, regard should be had to the height of the front external wall of each part of the building complained of, separately. A street laid out upon the site of an old street, and bearing the same name, is a new street within the meaning of the Act, unless it is substantially the same as the old one.—*ATTORNEY-GENERAL v. METCALF & GREIG, Kekewich, J.*, 229; 1907, 2 Ch. 23.

2. *Building—Party-wall—Difference between building and adjoining owners—Arbitration—Jurisdiction to award compensation for trade damage—London Building Act, 1894 (57 & 58 Vict. c. cxxiii.), s. 84, sub-section 6; s. 99, sub-section 1.*—Surveyors appointed under

section 91, sub-section 1, of the London Building Act, 1894, to settle a difference between building and adjoining owners in respect of the raising of a party-wall have no jurisdiction to award compensation for damage to trade or other consequential damage caused thereby.

Decision of the Divisional Court (1906, 2 K. B. 767) affirmed.—*ADAMS v. MARYLEBONE CORPORATION, C.A.*, 672.

3. *Road—Repair—Apportioning expense—Mode of recovery—Court of competent jurisdiction—Metropolis Management Amendment Act, 1890 (53 & 54 Vict. c. 86), s. 3.*—Repairs to a carriage road, which is not a "new street" and is not repairable by the inhabitants at large, executed by the local authority under section 3 of the Metropolis Management Amendment Act, 1890, may be recovered from the owners of the houses and land bounding or abutting on the road either by an action at law or in a summary manner before a police magistrate.—*REX v. GARRETT, C.A.*, 265; 1907, 1 K. B. 881.

4. *Water—Supply by meter—"Premises"—Land used for building, operations—Waterworks Clauses Act, 1847 (10 & 11 Vict. c. 17), s. 43—East London Waterworks Act, 1853 (16 & 17 Vict. clavi.), s. 79.*—The word "premises" in section 79 of the East London Waterworks Act, 1853, does not include land upon which a builder proposes to conduct building operations. Therefore the waterworks company is not liable to conviction under that section for refusing to supply water by meter to bare land as distinguished from houses.—*METROPOLITAN WATER BOARD v. PAINE, K.B.D.*, 51; 1907, 1 K. B. 285.

#### LUNACY:—

*Receiver—Bond—Surety—Death of lunatic—Receipts after death—Liability of surety.*—The death of a lunatic does not discharge the receiver of his estate from his liability to account for sums received by him as receiver, but after the death he no longer receives payments in that character, and though he is, of course, liable for such receipts personally, his sureties as receiver are not liable to make good moneys which it was no part of his duty as receiver to receive.—*WALKER, A LUNATIC, RE, C.A.*, 482; 1907, 2 Ch. 120.

See also Mortgage.

#### MARKET:—

*Limits—Public street—Ancient manorial market—Right to hold market in street—New streets made under statutory authority—Dedication—Market rights—Metropolis Improvement (Additional Thoroughfares) Act, 1840 (3 & 4 Vict. c. lxxvii.), s. 20.*—An ancient market was held in High-street, Whitechapel, and the evidence shewed that for some years the adjoining streets were also used for standing market carts when High-street was overcrowded. New streets adjoining High-street were constructed by a public authority under Acts passed in 1840 and 1865, and those Acts provided that the land laid open into the streets should form part of the streets and be used by the public accordingly. After the streets were made market carts used to be placed in them on market days.

Held, by Vaughan Williams and Buckley, L.J.J., Fletcher Moulton, L.J., dissenting, that the new streets were dedicated to the public subject to the market rights.—*GINGELL, SON, & FOSKETT v. STEPNEY CORPORATION, C.A.*, 717.

#### MARRIED WOMAN:—

*Restraint on anticipation—Rule against perpetuities—Severance of class.*—A testator gave a sum of money on trust after the death of S. for the children of S., or the children of a son or daughter of S., who being daughters should attain twenty-one or marry under that age, with a proviso that the shares of any girl should be for her separate use, without power of disposition except by will. S. had two daughters born in the testator's lifetime.

Held, that the proviso was valid and not affected by the rule against perpetuities, and that the daughters of S. were not entitled to have their shares transferred to them, but could only dispose of the same by will.—*GAME, RE, GAME v. TENNENT, Warrington, J.*, 210; 1907, 1 Ch. 276.

See also Probate.

#### MASTER and SERVANT:—

1. *Actress—Common employment—Contract of engagement—Exception of Employers' Liability Act, 1880.*—The plaintiff was, by an agreement in writing, engaged by the defendants, who were the proprietors of a theatre, to take part in the chorus of a pantomime at a weekly salary. The agreement contained a clause exempting the defendants from liability under the Employers' Liability Act, 1880. The plaintiff while performing was injured by something falling upon her head, and it was alleged on her behalf that the injury was caused by the negligence either of a scene-shifter or of a person who was described as a manager.

Held, that the doctrine of common employment applied; that the exception of liability under the Employers' Liability Act, 1880, did not prevent that doctrine from applying; and that therefore the



defendants were not liable.—*BURE v. THEATRE ROYAL DURY LANE (LIMITED), C.A.*, 265; 1907, 1 K. B. 544.

2. *Railway—Employee—Incapacity for particular kind of work—Employee subject to fits—Sick pay—Wages—Rules of friendly society—Claim for wages to date of dismissal, although receiving sick pay.*—The defendant company decided they would not be justified in employing the plaintiff any longer as a point holder on the railway owing to his being liable to fits. After one of these seizures the plaintiff was placed on the sick list of the friendly society (to which the company as well as the railway men contributed) and received sick pay, which was not payable to a member entitled to wages. The company did not at once give him notice, as they were willing to employ him in some other capacity if this could be found for him. Notice was subsequently given the plaintiff that his contract of service with the company would terminate that day fortnight. The plaintiff sued for twenty-two weeks' wages, alleging that the rules of the club did not alter his contract of service with the company, and that he was entitled to wages till that contract was terminated by notice.

Held, dismissing the plaintiff's appeal, that the action had rightly been held not maintainable.—*NIBLETT v. MIDLAND RAILWAY CO., K.B.D.*, 211.

3. *Workmen's compensation—Agreement to pay compensation under the Workmen's Compensation Act, 1897—Decision of county court judge that such agreement existed—Appeal—County Courts Act, 1888 (51 & 52 Vict. c. 43), s. 120—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), Second Schedule, clauses 8 and 10—Workmen's Compensation Rules, 1898, rr. 43, 44, 45.*—An appeal lies to the Divisional Court by an employer, as a party aggrieved in a matter in the county court, under section 120 of the County Courts Act, 1888, from the order of a county court judge finding that there is an agreement to pay compensation between an employer and workman within the meaning of clause 8 of the Second Schedule of the Workmen's Compensation Act, 1897, and directing that it should be recorded in the special register.—*JOHNSTON v. MEW, LANGTON & CO., K.B.D.*, 554.

4. *Workmen's compensation—Appeal—Security for costs—Motion for security—Prior request—Practice.*—Before notice of motion for security for costs in small cases is served, there ought to be a request to the other side for security and a refusal. If this is not done the costs of the motion will be the appellant's costs in the appeal.—*STANLAND v. NORTH-EASTERN STEEL CO., C.A.*, 12.

5. *Workmen's compensation—Defect in machinery—Negligence—Machinery not property of employer—Employers' Liability Act, 1880, ss. 1 and 2.*—The plaintiff was a workman in the employment of the defendant, who was a master stevedore. While engaged in unloading a vessel the plaintiff met with an accident owing to a defect in the derrick, which belonged to the ship.

Held, that there was a duty cast on the employer to take reasonable care to see that the plant used, though not his own property, was in order, and that the case must be sent back to the jury to answer the question whether he had in fact discharged this duty.—*BIDDLE v. HART, C.A.*, 229; 1907, 1 K. B. 649.

6. *Workmen's compensation—Dependant—Death of dependant—Right of personal representative of dependant—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), s. 1, Schedule I.*—Where a widow, the sole dependant of a workman whose death was caused by an accident in the course of his employment, made a claim against the employers for compensation under the Act of 1897, but died before any award was made,

Held, that the right to compensation survived, and passed to the personal representative of the widow.—*DARLINGTON v. ROSCOE & SONS, C.A.*, 130; 1907, 1 K. B. 219.

7. *Workmen's compensation—Earnings—Total dependency—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), s. 7, First Schedule.*—The widow and children of a workman are none the less "dependants wholly dependent upon his earnings at the time of his death" within the Workmen's Compensation Act, 1897, because he has been able by moneys coming to him through other channels, and which are not included in the term "earnings," to augment the fund out of which he is legally bound to maintain, and has in fact maintained, his household.—*SENIOR v. FOUNTAINS & BURNLEY (LIMITED), C.A.*, 590.

8. *Workmen's compensation—Engine-driver—Serious and wilful misconduct—Workmen's Compensation Act, 1897.*—A railway company made a rule that no engine-driver, while his train was in motion, should for any reason whatever leave the footplate of his engine. Bist, an engine-driver, while his train was running disregarded this order and went on to the tender, where he was killed.

Held, dismissing the appeal by his widow, that, Bist having been guilty of serious and wilful misconduct, the defendants were not liable to pay compensation under the Workmen's Compensation

Act, 1897, in respect of his death.—*BIST v. LONDON AND SOUTH-WESTERN RAILWAY CO., H.L.*, 444; 1907, A. C. 209.

9. *Workmen's compensation—Serious and wilful misconduct—Deliberate breach of order—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), s. 1, sub-section 2 (c).*—A workman was employed in sawing timber at a circular saw, which was protected by a guard. He was warned by his employer and the factory inspector against using the saw without the guard. He deliberately refrained from using the guard, with the result that he was killed. His widow claimed compensation.

Held, that the omission to use the guard amounted to serious and wilful misconduct, and that his widow was not entitled to compensation.—*BROOKER v. WARREN, C.A.*, 171.

10. *Workmen's compensation—Weekly payments—Return to work—Abandonment of rights—Dependants—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), First Schedule.*—Where a workman who has met with an accident in the course of his employment and receives a weekly payment which ceases on his return to work, his resumption of work does not by itself amount to an abandonment of his right against the employer. And the rights of a workman's dependants in such circumstances are separate from those of the workman, and cannot be abandoned by him, but the employers are entitled to take credit for all sums advanced by way of weekly payments.—*WILLIAMS v. VAUXHALL COLLIERY CO., C.A.*, 552; 1907, 2 K. B. 433.

11. *Workmen's compensation—Weekly payments ended by order of arbitrator—Application to review—Power of arbitrator to review—Res judicata—Workmen's Compensation Act, 1897.*—On the application of the defendant to review and terminate an award made in favour of a workman, on the ground that the workman was no longer incapacitated from work, the county court judge ordered that the weekly payments made under the award should end. The workman returned to work, but some time afterwards the wound in his foot again gave pain, and he was unable to work.

Held, that there was no power to open afresh the question of the master's liability to pay compensation for the accident the workman had met with while in his employ, although new circumstances had arisen, because the order of the county court judge was in such a form that the question of liability was *res judicata*.

*Per Lord Halsbury.*—The workman might at the time have appealed against the form of the order made by the county court judge.

*Semble*, the legal effect of the practice of keeping alive an award by the payment of a nominal sum a week held doubtful.—*NICHOLSON v. PIPER, H.L.*, 569; 1907, A. C. 215.

12. *Workmen's compensation—Widow—Posthumous child—Dependants—Legal presumption—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), s. 7.*—There is a legal presumption that a wife is a dependant on her husband within the meaning of the Workmen's Compensation Act, 1897, which can only be rebutted by proper evidence.

A posthumous child is also a dependant upon the earnings of a workman within the meaning of the Act.

The rule in *Villar v. Gilbey* (*ant.*, p. 341) applied.—*WILLIAMS v. OCEAN COAL CO., C.A.*, 551; 1907, 2 K. B. 422.

13. *Workmen's compensation—"Workman"—Scientific expert—Workmen's Compensation Act, 1897 (60 & 61 Vict. c. 37), s. 7 (2).*—A scientific expert employed by manufacturers of dyes and chemicals at a salary is not known as a workman within the meaning of the Workmen's Compensation Act, 1897, though he acts under the orders of the manager and does some manual work.—*BAGNALL v. LEVINSTEIN (LIMITED), C.A.*, 145; 1907, 1 K. B. 531.

MISTAKE.—See Principal and Agent.

MORTGAGE:—

1. *Demise by mortgagee "as agent"—Construction—Right of assignee to enforce covenants—Covenants running with the reversion.*—A mortgagee of a farm under a mortgage made in 1873 collected rent from the tenant as agent for the mortgagor. By an agreement dated in 1903 the mortgagee purported to demise the farm "as agent." Subsequently the farm was sold by the mortgagor and conveyed to a purchaser.

Held, that the purchaser was entitled to enforce as against the tenant the covenants contained in the agreement.—*CHAPMAN v. SMITH, Parker, J.*, 428; 1907, 2 Ch. 97.

2. *Equitable charge—Appropriation of securities by debtor.*—Where a client deposited a sum of money for investment with a firm of solicitors, who appropriated certain securities belonging to one of the partners, as executor of a late member of the firm, as security for the debt in circumstances which were not disclosed to the client until after the bankruptcy of the firm,

Held, that a good equitable charge had been created and that the client was not prevented from claiming his security, although h,

had proved as an unsecured creditor in the bankruptcy, the proof having been made before he became aware of his rights.—*PIDCOCK, RE, PENNY v. PIDCOCK, Joyce, J.*, 514.

3. *Limitations, Statute of—Settlement of mortgaged property—Payment of interest by trustees—Right of mortgagee to sue mortgagor.*—The defendant conveyed to the trustees of his daughter's marriage settlement property which he had mortgaged to the plaintiff, subject to the payment of principal and interest. The trustees paid the interest. On the plaintiff bringing an action to recover the principal and interest, the defendant contended that as he had not paid any interest for upwards of twelve years the action was statute barred.

Held, that the payments made by the trustees were sufficient to take the case out of the statute, and therefore the plaintiff was entitled to judgment.—*ALSTON v. MINEARD, K.B.D.* 132.

4. *Mortgage of equitable interest by client to solicitor—Sub-mortgage—Receipt clause in mortgage—Sufficient evidence of payment—Duty of sub-mortgagee to require extrinsic evidence of payment—Notice of sub-mortgagee to mortgagor—Alteration of state of account between mortgagor and mortgagee before notice.*—A person taking an assignment from a solicitor of property assigned or conveyed to the solicitor by his client in the transaction, and with notice of the relationship, is under a duty to obtain extrinsic evidence that the consideration for the property assigned or conveyed has been given.

*Semble*, the person so taking an assignment or conveyance is also under a duty to satisfy himself that the transaction was not invalid by reason of the relationship between the solicitor and his client. An assignee of an equitable interest takes subject to the state of account at the time of notice between the assignor and the debtor.

Where a sub-mortgagee took a sub-mortgage from a solicitor who had obtained the original mortgage from a client, with notice that the solicitor acted as such for the mortgagor in the mortgage, but the sub-mortgagee neither inquired for evidence extrinsic to the deed that the original advance had been made nor gave notice of the sub-mortgage to the original mortgagor before the mortgagor became entitled to repudiate the mortgage.

Held, that the original mortgagor was entitled to set up his equity to have the mortgage avoided against the sub-mortgagees.

*Bickerton v. Walker* (31 Ch. D. 151) distinguished.—*POWELL v. BROWNE, Joyce, J.*, 591.

5. *Mortgage of life policy subject to prior charge in favour of insurance company—Covenant by mortgagor to do nothing whereby policy might become voidable or void—Policy taken over by company at surrender value—Foreclosure by mortgagee.*—A policy subject to a charge in favour of the insurance company was mortgaged, the mortgagor covenanting to do and suffer nothing whereby the policy might become voidable or void. Under the terms of the mortgagor's agreement with the company, the company took over the policy at its surrender value upon the mortgagor's default in payment of interest to the company. Upon the mortgagee's seeking to foreclose on an alleged breach of the mortgagor's covenant,

Held, that the mortgagee was not entitled to foreclose, inasmuch as the mortgagor had done nothing in breach of the covenant.—*SAPIO v. HACKNEY, Warrington, J.*, 428.

6. *Priority—Negligence—Settlement—Postponement of holder of legal estate—Postponement of beneficiary under settlement.*—A, in 1896, purchased freehold property which was afterwards settled on his marriage. The trustees of the marriage settlement omitted to obtain possession from A. of the conveyance of the property to him, without, however, acting dishonestly in the matter. Subsequently A. mortgaged the property to B., who had no notice of the settlement.

Held, that the omission of the trustees to obtain possession of the deed of conveyance was negligence of such a character as to make it inequitable for them to rely on their legal estate to give them priority over the subsequent incumbrancer, and that the *cestui que trust* stood in no better position.

*Lloyds Banking Co. v. Jones* (29 Ch. D. 221) followed.

*Taylor v. London and County Banking Co.* (1901, 2 Ch. 231) distinguished.—*WALKER v. LINOM, Parker, J.*, 483; 1907, 2 Ch. 104.

7. *Sale—Surplus proceeds to go to mortgagors equally—One mortgagor lunatic—Conversion—Character of surplus proceeds.*—J. G., a lunatic, was entitled as mortgagor to a moiety of the surplus proceeds of a sale of the mortgaged land by mortgagees. The mortgaged property was sold in the lifetime of J. G., and the interest on his moiety of the surplus proceeds was applied for his maintenance in an asylum until his death.

Held, that conversion had taken place, and that J. G.'s personal representative was entitled to his moiety, lunacy *per se* not affecting the position.—*GRANGE, RE, CHADWICK v. GRANGE, Parker, J.*, 211; 1907, 1 Ch. 313; *aff.* 1907, 2 Ch. 20.

See also *Limitations, Statute of*.

#### MOTOR-CAR:—

*Speed limit fixed under the Act—Exceptions to indorsement of licences—Regulations made by the Commissioners of Works under the Parks Regulation Act, 1872—First offence—Indorsement of conviction on licence—Certiorari—Motor-car Act, 1903* (3 Ed. 7, c. 38), ss. 4, 9. —By section 9 of the Motor-car Act, 1903, twenty miles an hour on a highway is fixed as the speed limit, and provision is made for any conviction for an offence in connection with the driving of a motor-car being indorsed on the licence, except the conviction for a first or second offence consisting solely of exceeding any limit speed as fixed under that Act. The Commissioners of Works made regulations under the Parks Regulation Act, 1872, limiting the speed in parks to ten miles. The appellant was convicted of exceeding ten miles an hour in St. James's Park, and the magistrate held that, as the limitation of ten miles an hour was not fixed by the Act of 1903, the exception in favour of a first or second offence against speed driving did not apply, and he accordingly indorsed the licence.

Held, that the exception applied to any limit fixed by a competent authority to make regulations for the speed of motor-cars, and that the words in the Act of 1903 "fixed under this Act" were surplusage.

The rule for a *certiorari* to quash the indorsement was accordingly made absolute.—*REX v. MARSHAM, K.B.D.*, 592.

See also *Highway, Waterworks*.

#### NEGLIGENCE:—

1. *Highway—Obstruction—Domestic fowl—Trespass—Personal injury caused to person riding a bicycle on highway—Accident due to fowl being frightened by a passing dog—Claim for damages against the owner of the fowl.*—The plaintiff was riding his bicycle along a highway when a fowl belonging to the defendant, which was frightened by a dog, flew against his machine, with the result that the rider was thrown and the machine injured. In an action for damages against the owner of the fowl,

Held, that the defendant was not liable.—*HADWELL v. RIGHTON, K.B.D.*, 500; 1907, 2 K. B. 345.

2. *Premises out of repair—Owner executing repairs—Liability for damage caused by defective repair—Licensee—Nuisance.*—The defendants, who were the owners of a house, let it to a tenant, who sub-let part to a company. The manager of the company lived in the house with his wife, and they complained that a cistern in the lavatory which they used was in a dangerous state owing to the vibration caused by engines owned by the defendants upon adjoining premises. The defendants sent their workmen and put a bracket under the cistern to support it. Some months afterwards the bracket gave way and fell on the plaintiff and injured her. In an action by her to recover damages, the jury found that the bracket fell by reason of the vibration of the engines, which amounted to a nuisance, and that the bracket was negligently put up and left in a dangerous condition.

Held, that the plaintiff could not recover upon the ground of nuisance, as she had no proprietary or other interest in the premises; and that she could not recover on the ground of negligence, as the defendants owed no duty to her.—*MALONE v. LASKEY, C.A.*, 356; 1907, 2 K. B. 141.

See *Carrier, Costs, Mortgage*.

#### NUISANCE:—

1. *Electric power station—Noise and vibration—Injunction.*—Where it is proved that a serious nuisance is caused to the owners of property by machinery used by a public company incorporated under statutory powers to supply electrical energy within a certain district, the remedy is not limited to money compensation, but an injunction can also be granted against the company, although the company have not acted unreasonably in the mode in which they carried out their statutory duties.—*DEMERARA ELECTRIC CO. v. WHITE, P.C.*, 497; 1907, A. C. 330.

2. *Noise—Crowded neighbourhood occupied by printing trade—Private resident—Injunction.*—In considering whether a nuisance has been caused to a plaintiff through interference with his comfort and that of his family in the occupation of his house from the working by the defendants of machinery in adjoining premises, all the circumstances of the locality, and in particular the character of the trades usually carried on there, must be taken into account. If after making due allowance for the noises and disturbances existing in the locality prior to the commencement of the defendant's operations, there is a serious, and not merely a slight, additional interference with the plaintiff's comfort as above defined, it is the duty of the court to interfere and to restrain such nuisance by injunction.—*RUSHMER v. POLSUE & ALFIERI (LIMITED), H.L.*, 324; 1907, A. C. 121.

#### PARTNERSHIP:—

*Bill of exchange—Auctioneer—Trading firm.—Decision of the*



Divisional Court (54 W. R. 537; 1906, 2 K. B. 321) reversed, upon the ground that by the deed of partnership the firm of auctioneers carried on in part a trading business of buying and selling, to which the drawing and accepting of bills of exchange was incident, and that therefore the firm were liable on a bill accepted by one partner in the firm name in respect of a partnership transaction.—*WHEATLEY v. SMITHERS, C.A.*, 551.

See also *Solicitor*.

**PAWNBROKER:—**

*Stolen goods—Conviction of fraudulent bailee before justices—Application by police to justices for a restitution order—Action against pawnbroker by owner—Estoppel—Pawnbrokers Act, 1872 (35 & 36 Vict. c. 93), s. 30.*—An agent of the plaintiffs' firm pawned goods entrusted to him with the defendant and other pawnbrokers. After he was convicted the police obtained an order for the restitution to the plaintiffs of the goods pawned. The plaintiffs did not ask the police to make the application, nor did they oppose it. Subsequently the plaintiffs sued the defendant in the county court for wrongful detention of the goods, and obtained judgment.

Held, dismissing the defendant's appeal, that the order of the justices did not estop the plaintiffs from taking proceedings in the county court.—*LEICESTER v. CHERRYMAN, K.B.D.*, 429.

**PLATE:—**

*Hall-mark—Imported gold and silver watches—Plate Offences Act, 1738 (12 Geo. 2, c. 26)—Customs Act, 1842 (5 & 6 Vict. c. 47), ss. 59, 60.*—Gold and silver watches imported from abroad as completed articles must be assayed and stamped as gold and silver plate under section 59 of the Customs Act, 1842.—*GOLDSMITHS' COMPANY v. WYATT, C.A.*, 99; 1907, 1 K. B. 95.

**POLICE:—**

*Pension—Appeal to quarter sessions—Power of quarter sessions to state case—Police Act, 1890 (53 & 54 Vict. c. 45), s. 11.*—By section 11 of the Police Act, 1890, "in any . . . case where a constable . . . claims a pension or allowance under this Act as of right, and the police authority do not admit the claim, the constable . . . may apply to the police authority for the reconsideration of the claim to the pension or allowance, and if aggrieved by the decision upon such reconsideration may apply to the next practicable court of quarter sessions for the county within which the constable last served; or if the constable last served in the police force of a borough having a separate police force and a separate court of quarter sessions, then to the next practicable court of quarter sessions for that borough, and that court, after inquiry into the case, may make such order in the matter as appears to the court just, which order shall be final."

Held, that the court of quarter sessions has power to state a special case for the opinion of the court so as to enable it to arrive at its decision upon the matter before it.—*KYDD v. LIVERPOOL WATCH COMMITTEE, C.A.*, 590.

**POOR LAW:—**

1. *Assessment—Rateable value—Licensed premises—Deduction of amount due to compensation fund—Parochial Assessments Act, 1836 (6 & 7 Will. 4, c. 96), s. 1.*—The charge imposed in any year under the Licensing Act, 1904, s. 3, on licensed premises for the purpose of forming a compensation fund cannot be allowed as a deduction under the Parochial Assessments Act, 1836, s. 1, in arriving at the rateable value of such premises.—*WADDLE v. SUNDERLAND ASSESSMENT COMMITTEE, K.B.D.*, 14; 1906, 2 K. B. 899.

2. *Settlement—Division of parish—Order of county council—Provisions as to preserving settlements—Order confirmed by Local Government Board—Validity—Local Government Acts, 1888 (51 & 52 Vict. c. 41), ss. 57, 59; and 1894 (56 & 57 Vict. c. 73), ss. 36, 42, 69.*—Where a parish was, at the passing of the Local Government Act, 1894, situated in more than one urban district, and by section 36, sub-section 2, was divided, and the county council in an order made under the Local Government Acts, 1888 and 1894, and confirmed by the Local Government Board, dealing with the constitution of the separate parts of the old parish, provided for the retention of the settlements acquired in the old parish, such an order must, by virtue of section 36, sub-section 10, of the Act of 1894, be deemed to be an order made under section 57 of the Act of 1888, and by section 42 the order at the expiration of six months from its confirmation by the Local Government Board must be presumed to have been duly made, and to be within the powers of that section, and no objection to its legality could be entertained.—*REX v. MIDDLESEX JUSTICES, C.A.*, 482.

3. *Settlement and removal—Railway guard of night goods train—Settlement by residence—Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 34.*—The pauper, a guard on a night goods train running regularly between London and Great Yarmouth from 1871 to 1897, resided at St. Peter's-street, N.E., within the respondent's district, and during that time rented a

furnished room at Yarmouth, where on alternate days he lived and slept. In 1897 he married again and went to reside at Yarmouth, but retained a furnished room in the house he formerly rented at St. Peter's-street. In 1906 he met with an accident and became chargeable to the respondent's union, having resided at Great Yarmouth for upwards of three years under such circumstances as would render him irremovable. The respondents obtained an order of a metropolitan magistrate adjudging the parish of Great Yarmouth to be the last legal settlement of the pauper. The Great Yarmouth Union appealed.

Held, dismissing the appeal, that the order was rightly made; the inference to be gathered from the facts being that the pauper after 1897 regarded Yarmouth as his permanent residence.—*GREAT YARMOUTH UNION v. BETHNAL GREEN GUARDIANS, K.B.D.*, 607.

4. *Settlement and removal—Residential settlement—Child under sixteen—Illegitimate child of married woman—Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 71—Poor Removal Act, 1846 (9 & 10 Vict. c. 66), ss. 1, 3—Poor Removal Act, 1848 (11 & 12 Vict. c. 111), s. 1—Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), ss. 34, 35.*—An illegitimate child under sixteen can, under section 34 of the Divided Parishes and Poor Law Amendment Act, 1876, acquire a settlement of its own by residence with its mother, notwithstanding that the mother is throughout such residence precluded from acquiring a status of irremovability by the proviso to section 1 of the Poor Removal Act, 1846, contained in section 1 of the Poor Removal Act, 1848. And a settlement so acquired by an illegitimate child takes effect at once, and not only after the child attains the age of sixteen. That proviso does not apply to an illegitimate child, and, therefore, does not prevent an illegitimate child from acquiring an independent status of irremovability under the first part of section 1 of the Act of 1846. And the expression "person" in section 1 of the Act of 1846 and in section 34 of the Act of 1876 includes a child under sixteen.

Per Lord Loreburn, C.—There is no ground for the argument that the effect of section 3 of the Act of 1846 is qualified by the Act of 1848.

Seem, that a child whose removal from the parish in which it resides is not precluded by section 3 of the Poor Removal Act, 1846, but who is not otherwise irremovable, does fulfil the conditions of section 34 of the Act of 1876 as to residence under such circumstances as would render it irremovable, and that such residence, whether with the father or reputed father or with the mother, if either of the parents had acquired an irremovable settlement, therefore confers on the child a settlement.—*FULHAM UNION v. WOOLWICH UNION, H.L.*, 529; 1907, A. C. 255.

5. *Settlement and removal—Resolution of guardians to adopt child—Power to remove before resolution rescinded—Poor Law Act, 1899 (62 & 63 Vict. c. 37), s. 1.*—Where the guardians of a poor law union have passed a resolution under the Poor Law Act, 1899, by which all the rights and powers of the parent of a child maintained by them shall become vested in them, they are not precluded, even where they have not rescinded the resolution, from removing the child to the place of its last legal settlement.—*WANTAGE UNION v. BRISTOL UNION, K.B.D.*, 51; 1907, 1 K. B. 68.

See also *Rating*.

**POWER:—**

*Appointment—Exercise—Upon trust for sale and for objects of power.*—A special power of appointment over the equitable interest in real estate is well exercised by an appointment to trustees upon trust to sell and to hold the proceeds upon trust for the objects of the power of appointment.—*ADAMS' TRUSTEES AND FROST'S CONTRACT, RE, Warrington, J.*, 427; 1907, 1 Ch. 695.

**PRACTICE:—**

1. *Action for recovery of land—Joinder of other causes of action without leave—Waiver—R. S. C. XVIII. 2; LXX. 1, 2.*—The joinder, in an action for the recovery of land, of other causes of action without leave having been obtained under ord. 18, r. 2, is an irregularity which may be waived under ord. 70, rr. 1, 2. It is not necessary to the validity of the writ that leave should be obtained before the writ is issued.

*Filcher v. Hinds* (27 W. R. 789, 11 Ch. D. 905) explained.—*LLOYD v. GREAT WESTERN AND METROPOLITAN DAIRIES, C.A.*, 530.

2. *Dismissal of action—Action brought vexatiously and oppressively—Cause of action arising in India—Writ issued whilst plaintiff and defendant both temporarily in England—Action brought in England in respect of cause of action arising in India. Writ of summons, being issued whilst both plaintiff and defendant were temporarily in England, dismissed as being vexatious and oppressive.*—*BOBERT v. SHORT, Warrington, J.*, 499; 1907, 2 Ch. 205.

3. *Lancaster Palatine Court—Company—Winding up—Persons residing outside county—Service—Court of Chancery of Lancaster Act,*

1854 (17 & 18 Vict. c. 82), s. 8.—Under section 8 of the Court of Chancery of Lancaster Act, 1854, the Court of Appeal has jurisdiction to give leave to serve notices of orders and other proceedings in the winding up of a company, which is being wound up by the Court of Chancery of the County Palatine of Lancaster, on persons residing in England outside the county of Lancaster.—*STATE BANKING CORPORATION, RE, C.A.*, 265.

4. *Order by Master in Chambers—Motion to discharge order—Vexatious action—Staying proceedings or dismissal of action.*—An order made by a master in chambers cannot be varied or discharged by motion in court. The proper form of order to stop a vexatious action is to dismiss the action.—*HARRINGTON v. RAMAGE, Keke-wich, J.*, 514.

5. *Payment into court—Denial of liability—Judgment for less than amount paid in—Costs—Order for payment out—Discretion.*—*R. S. C. XXII. 6 (c).*—Where a defendant pays money into court with a denial of liability, and the plaintiff recovers judgment for an amount which carries costs, but which is less than that paid in, he is entitled to the costs of the action up to the time of payment in and to the costs of the issues upon which he has succeeded, and the defendant is entitled to the general costs of the action subsequent to the date of the payment in.

In such a case the plaintiff is *prima facie* entitled under ord. 22, r. 6 (c), to have paid out to him so much of the sum as is necessary to satisfy his claim, but he is not absolutely entitled to an order to that effect, as the judge has a discretion upon proper evidence to order the money to remain in court.—*POWELL v. VICKERS, SONS, & MAXIM, C.A.*, 66; 1907, 1 K. B. 71.

6. *Payment into court—Several causes of action—Payment in of lump sum—Right of plaintiff to particulars.*—*R. S. C. XXII.*—Where a sum of money was paid into court in satisfaction of separate and distinct causes of action, though they all arose out of one charter-party, the plaintiff was held entitled to particulars shewing how the amount paid in was to be apportioned between the several causes of action.—*JAMES TUCKER STEAMSHIP CO. (LIMITED) v. LAMPFORD, C.A.*, 12.

7. *Payment out—Married woman petitioner—Marriage settlement—Funds in court not affected by settlement—Certificate of counsel.*—A certificate of counsel is necessary to prove that funds in court, for payment out of which a married woman is a petitioner, are not (so far as concerns her share) affected by the trusts of such petitioner's marriage settlement.—*SMITH, RE, SMITH v. NEW, Warrington, J.*, 673.

8. *Payment out—Payment in, admitting liability—Death of plaintiff—Abatement of action—Payment to personal representatives.*—In an action for libel the defendant pleaded an apology, and, admitting liability, paid a sum into court. The plaintiff died before trial. The defendant applied to the court for payment out to him, and the personal representatives also applied for payment out to them. The judge having decided that the money should be paid out to personal representatives of the plaintiff, the Court of Appeal refused to interfere with the exercise of his discretion.—*MAXWELL v. WOLSELEY (VISCOUNT), C.A.*, 130; 1907, 1 K. B. 274.

9. *Payment out—Personality—Affidavit of no incumbrance.*—The rule requiring an affidavit of no incumbrance in the case of realty does not apply to personal estate, though there may be cases in which it would be necessary.—*EDWARDS v. GROVE, Ch.D. Keke-wich, J.*, 27.

10. *Service out of jurisdiction—Action of libel—Claim for injunction—No reasonable probability of obtaining injunction.*—*R. S. C. XI. 1 (f).*—In an action of libel claiming damages and an injunction to restrain the publication of the libel, the plaintiffs applied for leave under ord. 11, r. 1 (f), to issue the writ and serve it upon the defendant, who resided in Scotland.

Held, that the court would refuse leave if it was satisfied that there was no reasonable probability that the plaintiff would obtain an injunction at the trial.—*WATSON & SONS v. DAILY RECORD, C.A.*, 306; 1907, 1 K. B. 853.

11. *Staying proceedings—Conflicting orders—English and Colonial courts—Judicature Act, 1873 (36 & 37 Vict. c. 66), s. 24.*—An order was made by the Supreme Court of Natal on the 8th of September. In ignorance of this order the Vacation Judge made an order on the 19th of September. The two orders were conflicting, the first making it impossible for the defendants to comply with the second.

Held, that there was no jurisdiction to set aside the second order, and that execution ought not to be stayed under it.—*NAVAL, MILITARY, AND CIVIL SERVICE CO-OPERATIVE SOCIETY OF SOUTH AFRICA v. SERVICES (LIMITED), Ch.D. Warrington, J.*, 13.

12. *Striking out pleading—Affidavit in support—Admissibility of—Inherent jurisdiction of court.*—*R. S. C. XXV. 4.*—In an action by shareholders the defendants applied under the inherent jurisdiction of the court to strike out the statement of claim as shewing no

cause of action, and tendered an affidavit in support shewing that the company had ceased to exist. The plaintiffs objected to the affidavit being admitted.

Held, that the affidavit was admissible.—*VINSON v. PRION FIBRES CONSOLIDATED (LIMITED), Keke-wich, J.*, 81.

13. *Writ, error in—Defendant not appearing—Statement of claim filed before writ amended—Fresh statement of claim necessary.*—Where a statement of claim has been filed in default of appearance and the writ is subsequently amended, a fresh statement of claim must be filed, even though the amendment was unnecessary.—*SOUTHALL DEVELOPMENT SYNDICATE v. DUNSDON, Keke-wich, J.*, 189.

See also Administration, Appeal, Costs.

#### PRINCIPAL and AGENT:—

1. *Money paid under a mistake of fact to bankers for customer—Accounted for and further credit given—Mistaken belief of bankers that money was part of an assigned debt—Right to recover.*—Messrs. Kramrisch & Co., in 1902, requested the Dunlop Rubber Co. to make their cheques, given in payment of the price of goods supplied to them by the former firm, payable in future direct to Kleinwort & Co. By letter dated the 5th of January, 1903, specific directions were given by Kramrisch & Co. to the Dunlop Rubber Co. to pay Brandt & Co. a sum of £3,263 then due by them to Kramrisch & Co. for rubber sold to them by the latter, the purchase of which rubber had been in fact financed not by Kleinwort & Co. but by Brandt & Co. Owing to a mistake the specific instructions were disregarded and the general instructions obeyed, and a cheque for this amount was sent by the Dunlop Co. to Kleinwort & Co. and subsequently cashed. Brandt & Co. sued the Dunlop Rubber Co. to recover the sum so paid by them, on the ground that they, Brandt & Co., were equitable assignees of the debt of the plaintiffs, in discharge of which the cheque had been given, and they succeeded in establishing their claim in their lordship's House. The Dunlop Rubber Co. then brought this action against Kleinwort & Co. to recover the money they had been adjudged liable to pay Brandt & Co., and had paid by cheque in mistake of fact as money had and received to their, the plaintiffs', use.

Held, dismissing the appeal, that judgment had rightly been entered for the plaintiffs.—*KLEINWORT & CO. v. DUNLOP RUBBER CO., H.L.*, 672.

2. *Warranty of authority—Transfer of stock—True holder of stock impersonated by another person who forged signature and produced certificate—Innocent identification of forger by stockbroker as the true holder of the stock—Implied contract to indemnify—Liability.*—The defendant, a member of the London Stock Exchange, received instructions in the ordinary course of business to sell certain stock standing at the Bank of England in the name of Miss M. M. Pearson. The transfer was prepared and the sale carried through and the money paid. It subsequently turned out that Miss M. M. Pearson had been impersonated by her half-sister J. Pearson, and that the transaction on her part was a swindle. J. Pearson was prosecuted for forgery and was convicted. The bank having been called on by Miss M. M. Pearson to make good her loss, did so, and sued the defendant to recover from him the expenses they had thus incurred.

Held, the bank was entitled to judgment, as the defendant had introduced the transaction to the bank, and had identified J. Pearson as the true holder of the stock. Although his good faith was admitted, he must be assumed to have warranted that J. Pearson was the M. M. Pearson whom she impersonated, and his doing so imported a promise to indemnify the bank if, as it turned out, she was not.—*BANK OF ENGLAND v. CUTLER, K.B.D.*, 344; 1907, 1 K. B. 889.

See also Gaming.

#### PRIORITIES:—

*Will—Trust for sale—Breach of trust—Conflicting equities—Priority in time.*—C., a trustee for sale, conveyed trust property to M., as security for money owing by C. to M., without receiving the purchase-money. The indenture of conveyance contained the usual receipt clause. M., having notice of the breach of trust, deposited the indenture with B., charging the property in B.'s favour. B. had no notice of the breach of trust and did not know that no purchase-money had been paid.

Held, that as the rival equities of the beneficiaries under the trust and of B. were not superior to one another in any respect save that of priority in time, the equity of the beneficiaries must prevail on that ground.—*CAPELL v. WINTER, Parker, J.*, 570.

#### PRIVILEGE:—

*Defamation—Dictation of letter to clerk—Reasonable and ordinary course of business.*—Where a business message is privileged as between two persons, the dictation of that message by the sender to his clerk in order to be transcribed in the reasonable and ordinary



course of business comes within the privilege.—**EDMONDSON v. JOHN BIRCH & Co. (LIMITED), C.A., 207; 1907, 1 K. B. 371.**  
See also Divorce.

**PROBATE:—**

1. *Attachment—Conduct money—Court of Probate Act, 1857 (20 & 21 Vict. c. 77), s. 26—Will—Order to lodge—Solicitor's privilege.*—Conduct money must be tendered to a person sought to be brought before the court on attachment.

A solicitor cannot claim privilege when ordered to bring into the registry a testamentary paper.—**HARVEY, IN THE ESTATE OF, P.D. & Ad.D., 357; 1907, P. 239.**

2. *Married woman—Will—Assent of husband.*—Under the present practice the assent of a husband to his wife's will (if necessary) is not implied by reason of his having obtained probate of such will in general form.—**NATHAN, RE, HERRING v. SPYER, Warrington, J., 428.**

3. *Will—Incorporation of unattested paper—Principles of admission.*—Where there is a reference in a duly executed testamentary document to another testamentary document imperfectly executed, but by such terms as to make it capable of identification, it is necessarily a subject for the admission of parol evidence. To incorporate such a document in a will it is necessary that (1) the will should refer to the document as then in existence; (2) there should be proof that the document propounded was in fact written before the will was made; and (3) there should be proof of the identity of such document with that referred to in the will.—**UNIVERSITY COLLEGE OF NORTH WALES v. TAYLOR, P.D. & Ad.D., 357; 1907, P. 228.**

**PUBLIC AUTHORITIES:—**

*Action in rem—Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), s. 1.*—An action in rem does not come within section 1 of Public Authorities Protection Act, 1893.—**"BURNS," THE, C.A., 276; 1907, P. 137.**

**PUBLIC HEALTH.**—See Highway, Light Railways, Local Government, Rating, Slaughter-house.

**RAILWAY:—**

1. *Carriage of goods—Detention of truck—Demurrage—Claim for damages—Jurisdiction of court—Great Western Railway Company (Rates and Charges) Order Confirmation Act, 1891 (54 & 55 Vict. c. cxxvii.), s. 6.*—Section 6 of the Great Western Railway Company (Rates and Charges) Order Confirmation Act, 1891—which provides that "where merchandise is conveyed in trucks not belonging to the company the trader shall be entitled to recover from the company a reasonable sum by way of demurrage for any detention of his trucks beyond a reasonable period. . . . Any difference arising under this section shall be determined by an arbitrator"—does not apply to a common law action by a trader for damages for the detention of his trucks, so as to oust the jurisdiction of the courts.

So held by Vaughan Williams and Buckley, L.JJ. (Fletcher Moulton, L.J., dissenting), affirming the judgment of a Divisional Court (1906, 2 K. B. 426).—**REX v. MARYLEBONE COUNTY COURT JUDGE, C.A., 498.**

2. *Minerals—Notice not to work—Compensation—Arbitration—"Compensation for such mines"—Railways Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 20), s. 78.*—Where a railway company, under section 78 of the Railways Clauses Consolidation Act, 1845, gives notice to the owner of minerals lying under or adjacent to the railway to leave the minerals unworked, the railway company must pay to the mineral owner "as compensation for such mines" the value of the minerals which the owner is precluded from working, and not merely damages caused by reason of the interference with his working of the mine.

So held by Bigham, J. (1906, 1 K. B. 195), and affirmed on appeal to their lordship's bar.—**EDEN v. NORTH-EASTERN RAILWAY CO., H.L., 623.**

3. *Omnibus business for the purpose of carrying passengers—Incidental to business of railway—Ultra vires.*—Held that the running of omnibuses by the railway company, although for the bona fide purpose of carrying passengers to and from their station, was ultra vires.

Judgment of Warrington, J. (1906, 1 Ch. 811), restored.—**ATTORNEY-GENERAL v. MERSEY RAILWAY CO., H.L., 624.**

4. *Passengers' luggage—Article received by company as passenger's luggage—Company not bound to carry as such—Condition relieving company from liability—Contract not signed—Railway and Canal Traffic Act, 1854 (17 & 18 Vict. c. 31), s. 7.*—Where goods are received by a railway company under a contract for carriage with a passenger as his personal luggage, whether those goods are passengers' personal luggage or not, such a contract is subject to the provisions of section 7 of the Railway and Canal Traffic Act,

1854.—**WILKINSON v. LANCASHIRE AND YORKSHIRE RAILWAY CO., C.A., 481; 1907, 2 K. B. 222.**

5. *Passenger's luggage—Ordinary personal luggage carried with passenger free of charge—Loss of—Carriers Act, 1830 (1 Will. 4, c. 68), ss. 1, 2, 6.*—Section 1 of the Carriers Act, 1830, applies to the ordinary personal luggage accompanying a passenger on a railway which, within certain limits of weight, is carried free of charge.—**CASWELL v. CHESHIRE LINES COMMITTEE, K.B.D., 532.**

6. *Power of railway companies to limit their liability when receiving animals for carriage—Special condition printed on consignment note—Carriage of dog—Railway and Canal Traffic Act, 1854 (17 & 18 Vict. c. 31), s. 7.*—The plaintiff consigned a dog valued at £300 for carriage to the defendant company, and the dog was killed while in their charge. The defendants admitted liability up to £2, no declaration of value above that sum having been made by the owner, nor the premium of 1½ per cent. on value above £2 having been paid.

Held, that the defendants had not shewn that the special contract they relied on was "just and reasonable" within the proviso in section 7 of the Railway and Canal Traffic Act, 1854, and therefore the plaintiff could recover the value of the dog.—**WILLIAMS v. MIDLAND RAILWAY CO., K.B.D., 191.**

7. *Rates—Increase—Increase since the 31st of December, 1892—Complaint—Jurisdiction of Railway Commission—Railway and Canal Traffic Act, 1894 (57 & 58 Vict. c. 54), s. 1, sub-section 1.*—By section 1, sub-section 1, of the Railway and Canal Traffic Act, 1894, "Where a railway company have, either alone or jointly with any other railway company or companies, since the last day of December, 1892, directly or indirectly increased, or hereafter increase, directly or indirectly, any rate or charge, then if any complaint is made that the rate or charge is unreasonable, it shall lie on the company to prove that the increase of the rate or charge is reasonable. . . ."

Held (by Cozens-Hardy, M.R., and Fletcher Moulton, L.J., Kennedy, L.J., dissenting), that the section was not limited to an increase of a rate or charge above that in existence on the 31st of December, 1892, but applied to an increase of any rate or charge.—**NORTH STAFFORDSHIRE COLLIERY OWNERS' ASSOCIATION v. NORTH STAFFORDSHIRE RAILWAY CO., C.A., 386; 1907, 2 K. B. 191.**

**RATING:—**

1. *Burial-ground substituted for closed churchyard—Fees received by rector—Poor Rate Exemption Act, 1833 (3 & 4 Will. 4, c. 30), s. 1.*—A churchyard of a parish church having been closed, a piece of land a little distance from the old churchyard was acquired and conveyed to the Ecclesiastical Commissioners as an additional burial-ground. The land was consecrated, and the fees and charges for burials and graves fixed, the rector of the parish receiving the income derived therefrom.

Held, that the burial-ground was in the same position as an ordinary churchyard, and therefore the rector was not rateable in respect of it.—**MANCHESTER (NORTH) OVERSEERS v. WINSTANLEY, K.B.D., 68; 1907, 1 K. B. 27.**

2. *Decision of quarter sessions dismissing appeal—Allegation that one of the justices was disqualified by interest or possibility of bias—Certiorari.*—The court discharged the rule, holding that the alleged disqualification of the justice to sit as a member of the court of quarter sessions did not come within the rule laid down in *Allinson v. General Medical Council* (1894, 1 Q. B. 750).—**REX v. LONDON JUSTICES, K.B.D., 720.**

3. *Inhabited house duty—Stud farm with cottage let to stud groom—House Tax Act, 1857 (14 & 15 Vict. c. 36), s. 9.*—The appellant was owner of certain premises which he used as a stud farm, and was rated as the occupier of the whole of the said premises. Subsequently he let the cottage on the farm under an agreement in writing to his stud groom, the tenancy to be determined by three months' notice on either side. The appellant then claimed that he was no longer liable to be assessed as occupier of the cottage, and, further, that he was entitled to be rated in respect of the farm at the lower rate.

Held, that the appellant's claim must be allowed, there being no evidence that the agreement to let the cottage was a sham agreement, made merely for the purpose of avoiding liability, and was entitled to have his name struck off the list of occupiers in respect of the cottage, and to be rated as to the rest of the property at the rate applicable to agricultural land.—**COOPER v. ROSE, K.B.D., 673.**

4. *Occupation—Warehouse—Vacant—Control retained—To let for storage—Intention.*—The business of a warehouseman need not involve the actual presence on the premises of the warehouseman or his representative or any movable chattels. If he has the necessary appliances ready for use and holds himself out to let storage space, and by securing exclusive control over the warehouse has put him-

self in a position forthwith to give the accommodation required, he must be deemed to be in occupation for rating purposes.—*REX v. MELLADAW, C.A.*, 169; 1907, 1 K. B. 192.

5. *Poor rate—Harbour—Occupation—Docks—Statutory power to levy harbour dues—Dues connected with occupation of land—Swansea Harbour Act, 1854 (17 & 18 Vict. c. cxxvi.), ss. 125, 126, 127.*—Held, that the harbour rates on goods and harbour rates on ships could not be taken into account in considering the rateable value of the hereditaments held by the harbour trustees.—*SWANSEA HARBOUR TRUSTEES v. SWANSEA UNION, H.L.*, 717.

6. *Poor law—Sewerage board—Value of sewage farm as means of discharging statutory duties.*—A sewerage board let a sewage farm to a tenant at a fair rent, including an additional sum for the manurial value of the sewage.

Held, that the principle of *Reg. v. School Board for London* (34 W. R. 583) applied, and that the rating authorities ought to have assessed the farm, not on the basis of the rent actually paid, but on the basis of what rent might reasonably have been demanded of the sewerage board if they had rented the farm for the purpose of enabling them to discharge their statutory obligations.

Decision of Divisional Court (Lord Alverstone, C.J., and Lawrence and Ridley, JJ.) (54 W. R. 455) reversed.—*DAVIES v. SWINDON UNION, C.A.*, 208; 1907, 1 K. B. 630.

7. *Tramway—Land occupied by tramroad—Exemption as to three-fourths of net annual value—"Land used only as a railway"—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 211, sub-section 1 (b)—Blackpool and Fleetwood Tramroad Acts, 1896 (59 & 60 Vict. c. cxvii.) and 1898 (61 & 62 Vict. c. cl.).*—The exemption contained in section 211, sub-section 1 (b), of the Public Health Act, 1875, in favour of the "occupier of any land used only as a railway constructed under the powers of any Act of Parliament for public conveyance," applies in favour of a tramroad constructed by a tramway company, incorporated under Act of Parliament, under the powers of their Act on private ground for the purpose of linking up their tramway lines. The tramroad being physically indistinguishable from a railway is within the object of the section, which is to give relief to certain classes of property which do not obtain full benefit from the rates, and it is not deprived of this relief, because the private Act incorporates and makes applicable to the tramroad certain provisions of the Railway Acts, which for those special purposes is "to be deemed to be a railway."—*BLACKPOOL AND FLEETWOOD TRAMROAD CO. v. THORNTON URBAN COUNCIL, C.A.*, 227; 1907, 1 K. B. 568.

#### RESTRAINT OF TRADE:—

*Agreement for service—Miller—Not to enter service in United Kingdom—Reasonableness.*—By an agreement of service a servant agreed that he would not within the United Kingdom enter the service of any other miller within five years of the expiration of his engagement. The business of the plaintiffs was very extensive, and extended over the United Kingdom.

Held, that the agreement was not arbitrary or unreasonable, and was not therefore in restraint of trade.—*HENRY LEETHAM & SONS (LIMITED) v. JOHNSTONE-WHITE, Neville, J.*, 113; 1907, 1 Ch. 322.

#### REVENUE:

1. *Estate duty—Entail—Reversion in Crown—Power to disentail and alienate—Fines and Recoveries Act (34 & 35 Hen. 8, c. 20), ss. 15, 18.*—When as tenant for life a man succeeds to an estate which, although entailed, he could disentail, and therefore if he chose could alienate it, the Crown is entitled to claim estate duty in respect of that estate from him.

Held, that the conditions under which the Goodwood estates had been granted, and had descended to the defendant, did not preclude him from barring the entail, and therefore that estate duty was payable.—*ATTORNEY-GENERAL v. RICHMOND (DUKE), K.B.D.*, 704.

2. *Estate duty—Foreign bond—Bond negotiable on London Stock Exchange—Bond situate in England.*—A foreign bond, which forms part of a testator's estate, is liable to estate duty if negotiable in the country where such bond is physically situated at the death of the deceased.—*WINANS v. THE KING, K.B.D.*, 674.

3. *Estate duty—Incumbrances—Estate charged by the then tenant for life to the full value thereof—Claim by Crown to estate duty—Finance Act, 1894.*—A tenant for life of an entailed estate, which was by the entail tied up for a generation, petitioned the Scotch courts to approve a disentailing scheme under which he proposed to execute, in favour of certain persons who would be cut off if the disentailing deed were executed by him, bonds bearing interest and representing the full capital value of the estate. The petition was granted and the scheme carried through. At the death of the petitioner the estates passed to the defendant, from whom the Crown claimed estate duty on the full capital value.

Held, that the defendant's contention that as the estates by

reason of the charges on them were of no value to him, and therefore no estate duty was payable by him, was right, and that he was entitled to judgment against the Crown with costs.—*ATTORNEY-GENERAL v. RICHMOND (DUKE), K.B.D.*, 704.

4. *Estate duty—Property passing on death—Exemption—Marriage settlement—Finance Act, 1894 (57 & 58 Vict. c. 30), s. 5 (3)—Finance Act, 1896 (59 & 60 Vict. c. 28), ss. 14, 15 (1).*—By a marriage settlement the husband's fortune and the wife's fortune were settled upon trust to pay during the joint lives an annuity of £400 to the wife for her separate use without power of anticipation, and to pay the residue of the income, and after the death of the wife the whole income to the husband for life, and after his death to pay the whole income to the wife for life, and upon trust after the death of the survivor for the children of the marriage, and failing children, upon trust as to the husband's fortune for him, his executors, administrators, and assigns, and as to the wife's fortune, for her executors, administrators, and assigns. There were no children, and the wife survived the husband.

Held (affirming Walton, J., 54 W. R. 376; 1906, 1 K. B. 284), that on the death of the husband estate duty was payable on the wife's fortune, except so much of it as formed the corpus which produced the annuity of £400.—*ATTORNEY-GENERAL v. GLOSSOP, C.A.*, 97; 1907, 1 K. B. 163.

5. *Estate duty—Will—General power of appointment by will—Exercise of power—Residue—Finance Act, 1894 (57 & 58 Vict. c. 30), s. 9 (1).*—Where a general power of appointment is exercised by will, the appointed property does not pass to the executors "as such," and therefore the estate duty, which is payable in respect of such property, is payable out of the appointed property and not out of residue.

*Re Power* (1901, 2 Ch. 659) followed.

*Re Fearnside* (1903, 1 Ch. 250) and *Re Dixon* (1902, 1 Ch. 248) not followed.—*DODSON, RE, GIBSON v. DODSON, Warrington, J.*, 230; 1907, 1 Ch. 284.

6. *Income tax—Charge on property in excess of annual value—Right of owner in occupation to deduct tax on interest charged on property—Income Tax Act, 1842, s. 60, No. IV. r. 10—Income Tax Act, 1853, s. 40.*—The London County Council raised money on loan by the creation and issue of Metropolitan Consolidated Stock, which stock and the dividends thereon were charged on the lands, rents, and property of the council, and in addition the stockholders had the security of the rates. The council were in receipt of an annual income of £837,000 in cash, consisting of rents and interest on loans on which income tax was paid under Schedules A and D of the Income Tax Acts. They also possessed lands and buildings, which they occupied themselves, of the annual value of £118,000, and on this annual value they paid income tax under Schedule A. The annual interest on the Metropolitan Consolidated Stock was £1,371,000. The council used the whole of their cash income of £837,000 towards the payment of this interest, and they made up the deficiency out of the rates. On paying the interest to the stockholders they deducted income tax thereon. The Court of Appeal held, affirming Channell, J., that the council were entitled to retain for their own use so much of the income tax thus deducted as would recoup them for the tax which they had paid on the sum of £118,000, the annual value of the lands and buildings occupied by them.

Held, that the Crown was entitled to an order for payment of the tax claimed in respect of this sum of £118,000, although the stockholders paid income tax, because the two incomes were different, the persons who received and enjoyed them were different and the persons who paid income tax on these two incomes respectively were also different.

Judgment of the Court of Appeal (1905, 2 K. B. 375) reversed.—*ATTORNEY-GENERAL v. LONDON COUNTY COUNCIL, H.L.*, 372; 1907, A. C. 131.

7. *Income tax—Deduction—Allowance to wife—Right of husband to deduct—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 158—Income Tax Act, 1853 (16 & 17 Vict. c. 34), s. 40.*—Under an agreement a husband agreed to pay to his wife an annual allowance. The allowance fell into arrear. The husband had never deducted income tax from any sum paid by him on account of the allowance.

Held, that the husband was entitled to deduct income tax in respect of the arrears of the allowance which still remained unpaid but not in respect of payments already made.—*SHREWSBURY v. SHREWSBURY, Kekewich, J.*, 100.

8. *Income tax—Easter offerings—Vicar of parish—Perquisites or profits of office—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 146, Schedule E, rr. 1, 4.*—Easter offerings given by the parishioners to the incumbent of a parish in his capacity as incumbent, held, to be "perquisites or profits accruing by reason of such office" within the meaning of the Income Tax Act, 1842, s. 146, Schedule E, r. 1, and to be assessable to income tax.



Decision of Bray, J. (*ante*, p. 114; 1907, 1 K. B. 336), reversed.  
—COOPER v. BLAKISTON, C.A., 653; 1907, 1 K. B. 336.

9. *Income tax—Sewer—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 60, Schedule A, rr. 1, 3.*—A sewer was constructed by a joint sewerage board, and vested in the board by provisions in the provisional order establishing the board similar to the provisions of section 13 of the Public Health Act, 1875, whereby ordinary sewers are vested in the local authority.

Held, that the sewer was a hereditament capable of actual occupation within section 60, Schedule A, r. 1, of the Income Tax Act, 1842, and was assessable to income tax accordingly.

Decision of the Court of Appeal (1907, 1 K. B. 490) affirmed.—*YSTRADYFODWG AND PONTYPRIDD SEWERAGE BOARD v. BENSTED*, H.L., 588; 1907, A. C. 284.

10. *Stamp—Receipt—Counsel's fees—Stamp Act, 1891 (54 & 55 Vict. c. 39), s. 101, First Schedule.*—When counsel after receiving a fee of £2 or upwards places his initials or name against the fee on his brief or at the foot of a statement of fees, the document so initialed or signed is liable to stamp duty as a receipt.—*GENERAL COUNCIL OF THE BAR v. INLAND REVENUE COMMISSIONERS*, K.B.D., 159; 1907, 1 K. B. 462.

11. *Stamp—Treasury note of foreign government—Promissory note—Marketable security—Stamp Act, 1891 (54 & 55 Vict. c. 39), ss. 33, 82, 122.*—A gold coupon treasury note issued by a foreign government redeemable at any time before maturity on sixty days' notice, and promising to pay bearer the principal in gold coin and interest half-yearly on the surrender of the annexed coupon, the principal and interest to be paid in London or New York at the option of the holder, is a marketable security for the purposes of the Stamp Act, 1891, and must be stamped as such.—*SPEYER BROTHERS v. INLAND REVENUE COMMISSIONERS*, C.A., 98; 1907, 1 K. B. 246.

#### RIOT:—

*What constitutes—Riotously and tumultuously assembling together—Riot (Damages) Act, 1886 (49 & 50 Vict. c. 38), s. 2 (1).*—There are five necessary elements of a riot—(1) number of persons, three at least; (2) common purpose; (3) execution or inception of the common purpose; (4) an intent to help one another, by force if necessary, against any person who may oppose them in the execution of their common purpose; (5) force or violence not merely used in demolishing, but displayed in such a manner as to alarm at least one person of reasonable firmness and courage.—*FIELD v. RECEIVER FOR METROPOLITAN POLICE DISTRICT*, K.B.D., 720.

RIVER.—See Local Government.

#### SALE of GOODS:—

1. *Auction—"Subject to a reserve price"—Bid at less than reserve—Acceptance of bid—Refusal of auctioneer to complete—Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 58, sub-section 2.*—When a person makes a bid for goods at an auction where the sale is subject to a reserve price, the offer is conditional upon the bid being equal to or above the reserve price, and if the auctioneer knocks down the goods to the bidder, that is an acceptance of that conditional offer, and if the offer does not equal or exceed the reserve price the auctioneer is under no liability to the bidder.—*McMANUS v. FORTESCUE*, C.A., 245; 1907, 2 K. B. 1.

2. *Factor—Goods in possession of mercantile agent—"Consent of the owner"—Larceny by a trick—Three co-adventurers—One not acting in good faith—Factors Act, 1889 (52 & 53 Vict. c. 45), s. 2, sub-section 1.*—If goods are obtained by a mercantile agent from the owner by larceny by a trick, they are not in the possession of the mercantile agent with the consent of the owner so as to make a disposition of the goods by the former valid as against the owner within section 2, sub-section 1, of the Factors Act, 1889. Where the goods are purchased from the mercantile agent by a person on joint account with another person so as to make them partners in the transaction, and one of those persons does, and the other does not, act in good faith, the purchase is not valid as regards either of them.—*OPPENHEIMER v. FRAZER & WYATT*, C.A., 373; 1907, 2 K. B. 50.

See also Contract.

#### SCHOOL:—

*Endowed schools—Power of head master to dismiss assistant masters without notice—Endowed Schools Acts, 1868 (31 & 32 Vict. c. 32) and 1869 (32 & 33 Vict. c. 56), ss. 9, 10, 22.*—Held, that assistant masters in schools, carried on in accordance with a scheme made by the Charity Commissioners under the provisions of the Endowed Schools Act, 1869, have no relation whatever to the school they work in or to its governing body, but are the personal servants of the head master, who can dismiss them at pleasure without notice.—*WRIGHT v. ZETLAND (MARQUIS)*, K.B.D., 675.

See also Education.

#### SEQUESTRATION:—

*Wilful disobedience of order of court—Submission after notice of motion—R. S. C. XLIII. 31—Jurisdiction of the court.*—Upon application for sequestration the question for the court is whether a contempt has been committed. The court has no jurisdiction otherwise to declare the rights of the parties *inter se* as regards any of the facts alleged in support of the application. Where the defendants submitted to an injunction restraining them from infringing the plaintiffs' patent, and subsequently committed an alleged infringement in circumstances which were held not to amount to an intentional disobedience of the injunction, it was held that the court could not make any declaration as to whether the facts alleged amounted to an infringement of the patent.—*METENS (LIMITED) v. METROPOLITAN GAS METERS (LIMITED)*, Joyce, J., 499.

#### SETTLED LAND:—

1. *Improvements—Expenditure out of capital—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 25.*—The expenses of providing a mansion-house with a fire hydrant and hose for protection against fire, and of rebuilding a garden wall, allowed out of capital under the Settled Land Act, 1882, s. 25. The cost of establishing a laundry at a distance from the house not allowed. If the court is satisfied that an improvement within the meaning of section 25 of the Settled Land Act, 1882, has been effected or is intended, the court will not refuse to sanction the payment out of capital by reason only that the expenditure is unusually heavy.—*DUNRAVEN'S SETTLED ESTATES*, RE, Kekewich, J., 653.

2. *Tenant for life—Sale to public body—Price fixed by arbitration—Agreement confirmed by private Act—Power to bind remainderman.*—A tenant for life agreed to sell settled land to a corporation, the purchase price to be settled by arbitration, this constituting a breach of trust. The agreement was subsequently confirmed by a private Act of Parliament "and made binding on the parties thereto."

Held, that the effect of the private Act was to make the agreement binding on all the persons interested under the settlement.—*WILTON'S SETTLED ESTATES*, RE, Warrington, J., 68; 1907, 1 Ch. 50.

#### SETTLEMENT:—

*Tenant for life and remaindermen—Incidence of costs—Expense of trustees in compelling tenants to repair—"Outgoings."*—The expense incurred by trustees in compelling tenants of the settled property to perform their covenants to repair, such as costs of survey and serving notices, must be borne in fair proportions by the tenant for life and remaindermen, and that can be best effected by raising the amount on mortgage of the property.

Such expenses are not "outgoings."—*McCLURE'S TRUSTS*, RE, Carr v. COMMERCIAL UNION ASSURANCE CO., Kekewich, J., 67.

#### SHIP:—

1. *Charter-party—Bill of lading—Duty of master to sign—Bill of lading at variance with charter-party—Liability of shipowner to holder of bill of lading—Implied contract of indemnity.*—A charter-party contained what is known as the negligence clause, which provided for the immunity of the owner from liability in the events therein mentioned, including collisions, stranding, and other accidents of navigation, even when occasioned by the negligence, default, or error of judgment of the pilot, master, mariners, or other servants of the shipowners. In the bills of lading there was no express reference to the negligence clause, but they contained the words, "and all other conditions as per charter-party." These bills were presented by the charterers to the master, by whom they were signed. During the voyage the vessel and her cargo were totally lost, and the loss was found to have been due to the negligence of the master. The cargo-owner sued the owners, the Moel Tryvan Ship Co. (Limited), and recovered damages. The present action was brought by the owners against the charterers, claiming indemnity for the £12,000 they had thus been compelled to pay. The defendants relied on the negligence clause in the charter-party, but the courts below held the words "and all other conditions as per charter-party" did not preclude the plaintiffs' right to sue.

Held, dismissing the appeal, that the charterers had rightly been held liable to give adequate indemnity to the shipowners, since they undertook that the bills of lading they presented to the master should be in accordance with the charter-party.—*MOEL TRYVAN SHIP CO. v. KRUGER & CO.*, H.L., 623; 1907, A. C. 272.

2. *Collision—Dredger—Loss of use of—Trustees making no profit—Measure of damages.*—A collision between a ship and a dredger was caused by the fault of the ship. The dredger belonged to the Mersey Docks and Harbour Board, and was so damaged by the collision that it had to be laid up for repairs for nine days.

Held, that the true measure of damages, since the dredger was

not worked for profit, was the out-of-pocket expenses which the board were compelled to incur notwithstanding that the dredger was laid up, the depreciation upon the dredger, and the loss of interest upon the capital caused by her detention.—*MERSEY DOCKS AND HARBOUR BOARD v. STEAMSHIP "MARFERRA," H.L. 530; 1907, A.C. 241.*

3. Collision—"Narrow channel"—Entrance to harbour—Opening in breakwater—Regulations for Preventing Collisions at Sea, 1897, art. 25.—Article 25 of the Regulations for Preventing Collisions at Sea, 1897—which provides that "in narrow channels every steam vessel shall, where it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel"—applies to an entrance to a harbour by means of an opening in a breakwater, though there is broad water both inside and outside the breakwater.—"*KAISER WILHELM DER GROSSE," THE, C.A., 498; 1907, P. 259.*

4. Collision—"Not under command"—"Aground"—Authorized or required by these rules—Regulations for Preventing Collisions at Sea, 1897, arts. 4, 11, 28.—Held, that the decision of the majority of the Court of Appeal as to blame for collision was right; Lord Loreburn, C., expressly declining to decide the question raised by Fletcher Moulton, L.J., whether the "departure from the above rules" authorized by article 27 had any application to the imperative directions contained in article 28.—"*CANNING, THE, AND THE "BELLANOCH," H.L., 605.*

5. Collision—Regulations for Preventing Collisions at Sea—Inland tidal waters—*Ultra vires*—Course authorized or required by these rules—Course required by rules of good seamanship—Necessity to signal—Article 28.—The Regulations for Preventing Collisions at Sea apply to inland tidal waters connected with the high seas and navigable by sea-going vessels, and in so applying are not *ultra vires*. A course is "authorized" by the regulations within the meaning of article 28 where the rules of good seamanship require that such a course shall be taken.—"*ANSELM, THE, C.A., 342; 1907, P. 151.*

6. Demurrage—Loading—"Sundays and holidays excepted"—Loading on excepted days—Despatch money—"Days saved in loading"—Sunday or holiday.—By a charter-party seven weather working days (Sundays and holidays excepted) were to be allowed for loading, and for any time beyond that period the charterers were to pay demurrage at the rate of £40 per day; and for each day saved in loading the charterers were to be allowed £20. The charterers, in the case of one ship, loaded on two holidays, but there was no express agreement as to whether or not those two days were to be treated as working days. In the case of another ship, the charterers by loading within the lay days enabled the ship to sail two days earlier than the date to which she might have been kept without paying demurrage, but one of those days was a holiday.

Held (by Vaughan Williams and Buckley, L.J.J., Fletcher Moulton, L.J., dissenting), that, in the first case, the proper inference was that the parties agreed to treat the holidays upon which loading was done as working days; and that in the second case the holiday was not a day "saved in loading" within the meaning of the charter-party.

Decision of Channell, J. (1907, 1 K. B. 788n, 12 Com. Cas. 185), affirmed.—*NELSON & SONS v. NELSON LINE, C.A., 606; 1907, 1 K. B. 788.*

7. Deviation—Bill of lading—Excepted perils—Loss not caused during deviation—Liability of shipowner.—A bill of lading exempted the shipowner from liability for a loss of goods carried in the ship owing (*inter alia*) to the negligence of stevedores in discharging the cargo. The ship deviated from the voyage specified in the bill of lading, and on arrival at the port of discharge the goods were damaged owing to the negligence of the stevedores in discharging them.

Held, that the shipowner could not, by reason of the deviation, rely upon the exemption in the bill of lading as an answer to a claim for the damage to the goods, though the damage was not caused by or during the deviation.

*Balian & Sons v. Joly, Victoria, & Co. (6 Times L. R. 345) followed.*—*JOSEPH THORLEY (LIMITED) v. ORCHES STEAMSHIP CO., C.A., 289; 1907, 1 K. B. 660.*

8. Light dues—Space occupied by bunker coals on awning deck—"Deck cargo"—"Stores"—Merchant Shipping Act, 1894, s. 85 (1)—Merchant Shipping (Mercantile Marine Fund) Act, 1898, s. 5 (2); Schedule 2, r. 8.—Bunker coal was placed on the awning deck of a vessel when she left Penarth for Buenos Ayres. During the voyage the coal was transferred to the bunkers and burnt. In a claim in respect to light dues,

Held, that for the purpose of levying light dues the space so occupied on the awning deck had to be taken into consideration in

arriving at the registered tonnage. In section 85 of the Merchant Shipping Act, 1894, "deck cargo" includes goods that are not freight-earning. "Stores" includes ship's stores carried for the use of the ship itself. "Other goods" is not limited to freight-earning goods, and is wide enough to include bunker coal. The bunker coals carried on the awning deck came within the meaning of deck cargo, and light dues were payable.—*CAIRN LINE v. TRINITY HOUSE CORPORATION, K.B.D., 291; 1907, 1 K. B. 604.*

9. Limitation of liability—"Owner"—Charterer—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 503, 504.—The charterer by demise of a ship, who has the complete control of it during the period covered by the charter, but who is not the registered owner, is not the "owner" thereof so as to be entitled to limit his liability under sections 503 and 504 of the Merchant Shipping Act, 1894, for damage from collision caused by the negligence of his servants.—*HOPPER No. 66, THE, C.A., 386; 1907, 2 K. B. 254.*

10. Naval court—Jurisdiction—Contraband of war—Refusal to work—Dismissal from ship—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 225, 480 to 485.—A naval court, properly constituted, on, on a complaint brought under section 225 of the Merchant Shipping Act, 1894, exercise all or any of the powers conferred by section 483 of the Act, and its decision is conclusive of the rights, not only between the parties actually before it, but also between other parties. Consequently the discharge of a seaman by a naval court on the complaint of the master of the ship is a complete answer to a subsequent action against the owners for wages due.—*HUTTON v. RAS STEAMSHIP CO., C.A., 247; 1907, 1 K. B. 834.*

11. Seaman—Wages—"End of voyage"—Home port—Agreement with crew—Election of master—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), ss. 113, 114 (1) (2), 115 (5).—A seaman signed an agreement at Cardiff for a voyage to end at such port in the United Kingdom or continent of Europe within home trading limits "as may be required by the master." The ship sailed with a cargo from Cardiff to Malta, and from Malta to the Black Sea, where she loaded a cargo for Southampton. On arrival at that port she there discharged the whole of her cargo. The seaman thereupon demanded his wages, on the ground that the voyage was at an end. The master refused, saying he intended to take the ship in ballast back to Cardiff.

Held, dismissing the appeal, that the voyage was not necessarily at an end when the ship discharged her cargo at Southampton, and therefore the master was entitled to exercise his option of determining what port should be the port of discharge under the terms of the agreement.—*BOARD OF TRADE v. BAXTER ("THE SCARSDALE"), H.L., 701.*

12. Seamen's wages—Agreement with crew—Proposal during voyage to proceed with contraband cargo to belligerent port—Refusal—Conviction—Right to wages—Termination of voyage—Wages until final settlement—Damages—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 134.—Held, dismissing the shipowners' appeal, that, as the character of the voyage was changed from an ordinary commercial venture for which the seamen had signed on to one involving increased risks, the seamen were entitled to refuse to continue it, and were therefore entitled to their wages down to the date of the judgment in the Court of Appeal, which was in this case the "final settlement" of the claim; that the conviction before the colonial port magistrate on a charge of conspiring to impede the progress of the ship did not operate as an estoppel so as to bar them from making the claim, but that the men were not entitled to damages for the proceedings taken against them in the colonial port.

The Court of Appeal allowed a certain sum also for "maintenance and cure."

Per Lord Loreburn, C.—Whether a sum for maintenance awarded by the Court of Appeal could properly be awarded as "wages."—*PALACE SHIPPING CO. v. CAINE, H.L., 716.*

13. Seaworthiness—Theft from cabin—Watch—Invitation—Watch receptacle—Negligence—"Fault or privity"—Conditions on ticket—Liability—No declaration of value—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 502.—A passenger on a steamship placed his watch and chain, with gold cigar cutter and sovereign purse attached, in a watch pocket which had been placed by the defendants on a hook above the head of the top bunk occupied by the plaintiff. Above the pocket was a fanlight, which led to the air shaft which opened on to the spar deck. A thief in the night, by putting his head and shoulders into the shaft, stretched his arm down and stole the contents of the pocket. On the back of the plaintiff's ticket was a condition exempting the owners from liability for loss to goods, articles, &c., belonging to or carried by or with any passenger occasioned by theft by persons in the employment of the owners or by others, or other acts, defaults, or negligence of the owners' agents or servants of any kind whatsoever. No declaration had been made of the value of the articles. In an action for damages for negligence and breach of the



warranty of seaworthiness that the cabin was fit for the reception of the passenger and articles carried on the person.

Held, that the terms of the ticket were a good defence; if not, then section 502 of the Merchant Shipping Act, 1894, was a good defence. As to articles in the personal custody of a passenger, articles carried in his pocket, the carriers' liability was the same as in respect to the passenger. If by placing the articles in the pocket they ceased to come under the category of those things in respect to which the carriers' liability was the same as in respect to the passenger, they would come within section 502 as articles "taken in or put on board." In the case of a corporation the fault of those having the managing authority would be the "fault or privity" of the corporation, but not the fault of a servant or agent to whom was not deputed the general management.—*SMITTON v. ORIENT STEAM NAVIGATION CO., K.B.D., 343.*

#### SLAUGHTER-HOUSE:—

*Licence—Personal licence to slaughter at a particular place—Continuous user of premises—Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), ss. 125, 126—Public Health Act, 1875 (38 & 39 Vict. c. 55).*—Held, that a licence for a slaughter-house, granted under section 125 of the Towns Improvement Clauses Act, 1847, was a personal licence, and determined on the death of the licensee.—*GOODWIN v. SALE, K.B.D., 514; 1907, 2 K. B. 278.*

#### SOLICITOR:—

1. *Costs—Agreement in writing—Signature by client only—Signature of solicitor on letter to client—Reference to taxing-master—Attorneys and Solicitors Act, 1870 (33 & 34 Vict. c. 28), ss. 4, 8, 9, 15.*—An agreement between a solicitor and client as to the payment of costs is an "agreement in writing" within section 4 of the Attorneys and Solicitors Act, 1870, even though signed by the client alone.

*Re Thompson (1894, 1 Q. B. 462) and Re Jones (1895, 2 Ch. 719) followed.*

*Pontifex v. Farnham (41 W. R. 238) explained.*

Before including the amount payable under such an agreement in the sum to be found due to the solicitor, the agreement must be examined and allowed by the taxing-master.—*BAKE v. FRENCH, Warrington, J., 554; 1907, 2 Ch. 216.*

2. *Costs—Charging order—Property recovered or preserved—Sale by client—Purchaser without notice—Constructive notice—Ex parte application—Solicitors Act, 1860 (23 & 24 Vict. c. 127), s. 28.*—A charging order under the Solicitors Act, 1860, ought not to be made on an *ex parte* application except in very special circumstances.

A purchaser of the property recovered or preserved cannot be affected with constructive notice that a charging order may be subsequently obtained by vendor's solicitor.

A charging order does not relate back so as to take precedence of a *bond fide* sale or mortgage.—*"BIRNAM WOOD," THE, C.A., 51; 1907, P. 1.*

3. *Costs—Charging order—Trustees' costs, charges, and expenses—"Property preserved"—Insufficient estate—Priority—Solicitors Act, 1860 (23 & 24 Vict. c. 127), s. 28.*—Where an estate has been "preserved" within section 28 of the Solicitors Act, 1860, the court has a discretion as to whether it will make a charging order in favour of the solicitors, and the fact that trustees will thereby be deprived of their costs, charges, and expenses is a reason for the court declining to exercise its discretion.—*TURNER, RE, WOOD v. TURNER, C.A., 485; 1907, 2 Ch. 128.*

4. *Costs—Ex parte order for taxation—Irregularity—Taxation of one of several bills—Delivery of bill—Payment—Agreement for payment—Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 8—Solicitor for both mortgagor and mortgagee.*—Where a solicitor accepted a lump sum in discharge of his client's costs of a completed purchase without any agreement in writing, and without delivery of a formal bill of costs,

Held, that the bill was not outstanding, and did not require to be included in an *ex parte* order for taxation obtained by the solicitor in respect of another bill.

*Semble*, a payment in discharge of past costs by way of accord and satisfaction is not an agreement for remuneration within the Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 44), s. 8, and precludes taxation in the absence of special circumstances. A solicitor acting for both mortgagor and mortgagee is not required to include the mortgage costs where there is no relation of solicitor and client as to those costs between him and the mortgagor, in his application [for an *ex parte* order for taxation of separate bills against the mortgagor client].—*DUNCAN, RE, A SOLICITOR, Kekewich, J., 485.*

5. *Costs—Oral agreement—Agreement to take less than usual rate—Validity as against solicitor—Solicitors Act, 1870 (33 & 34 Vict. c. 28), s. 4.*—An oral agreement by a solicitor, who has been retained by a

client to conduct an action for him, to charge the client nothing for costs if the action is successful, leaving the solicitor to recover his costs from the other party to the action, is enforceable by the client against the solicitor; such an agreement, when relied upon by the client, not being required to be in writing under section 4 of the Solicitors Act, 1870.—*CLARE v. JOSEPH, C.A., 467; 1907, 2 K. B. 369.*

6. *Finding by Statutory Committee—Charge against solicitor pending before justices—Application to Divisional Court to postpone dealing with report pending decision of justices—Prejudice—Undertaking by solicitor.*—A solicitor was charged before justices and remanded, and he applied to the Divisional Court that the report of the Statutory Committee on a charge of professional misconduct might stand out of their lordships' list, on the ground that a decision might prejudice his fair trial.

Held, that the application should be granted, on the solicitor giving an undertaking in writing not to practise until the report had been dealt with by the court.—*SOLICITOR, A, RE, EX PARTE LAW SOCIETY, K.B.D., 212.*

7. *Officer of court—Jurisdiction of court over.—F., an undischarged bankrupt, applied by R. & Co., solicitors, for the taxation of certain costs owed by him to H., another solicitor, for professional services. On the summons H. stated that F. was an undischarged bankrupt, and asked for the dismissal of the summons as being vexatious. R. & Co.'s clerk denied this, and the master made the order for taxation. F., on being communicated with and hearing what had occurred, placed £150 in the custody of R. & Co. to meet the bill of costs, and R. & Co. thereupon wrote the following letter to H.: "Having regard to the statements made by your clerk to the master on our client's application to tax your bill of costs, Mr. F. has to-day placed in our hands the full amount of your bills, so that on the completion of the taxation we shall be in a position to pay you the amount certified by the master as due to you. On the faith of this letter H. did nothing further, and some time elapsed. The bill was taxed at £82 10s. 7d., but R. & Co. eventually refused to pay it, on the ground that they were entitled to retain the money for costs due by F. to them. On a summons taken out by H., the master made an order for payment by R. & Co. of the amount taxed, but Bray, J., set aside the master's order. On appeal it was*

Held, that the court, exercising its jurisdiction over officers of the court, would make an order for payment by R. & Co. of the taxed costs.—*SOLICITOR, A, RE, EX PARTE HALE, K.B.D., 626.*

8. *Partnership—Bankruptcy of one partner—Partnership action—Receiver—Conduct of action—Practice.*—A receiver of assets appointed on the application of the plaintiff in a partnership action cannot be represented by the plaintiff's solicitors in matters in which his interests as such receiver conflict with the plaintiff's interests.—*BLOOMER v. CURRIE, Joyce, J., 277.*

9. *Practice—Appeal—Taxation—Summons to review—Order dismissing summons—Interlocutory order—Leave to appeal.*—Where an order has been made for taxation and payment of costs, an order dismissing a summons to review the taxation is an interlocutory order, and leave to appeal from it is necessary.—*JEROME, RE, C.A., 485; 1907, 2 Ch. 145.*

10. *Trusts—Costs—Remuneration clause—"All professional and other charges"—Right to charge for non-professional work.*—A testator directed that one of his executors and trustees, who was a solicitor, should be the solicitor to the trust and should be allowed "all professional and other charges for his time and trouble, notwithstanding his being such executor and trustee."

Held, that he was not entitled to charge for work done which was capable of being done by a trustee personally, and not requiring the employment of a solicitor.

*Bennett v. Bennett (1893, 2 Ch. 413) distinguished.*—*CHALINDER & HERRINGTON, RE, Warrington, J., 69; 1907, 1 Ch. 58.*

11. *Trusts—Receipt of trust funds for investment given by both trustees—Cheque cashed and money paid by solicitor into his own account—Misappropriation of client's money—Alleged liability of firm for wrongful act of partner quā trustee—Partnership Act, 1890, s. 11, sub-sections (a), (b).*—A solicitor whose firm acted as solicitor to the trustees of a marriage settlement, was appointed a trustee of the trust, and after his appointment a sum of money came into his hands to invest under the terms of the settlement. £600; part of this sum, it was agreed he should retain himself as a loan on the mortgage of his own house. The mortgage in fact was never executed, although he paid interest to the *cuius que trust* as if it had been. After some years the solicitor got into difficulties. His house was sold, and the co-trustee brought an action against the solicitor's solvent partner, alleging that he was liable.

Held, that the defendant was not liable for the default of his

partner which caused the loss, as the loss was due to wrongful acts *quid trustee* and not *quid solicitor*.—*PALMER v. S., K.B.D.*, 553.

#### TENANT FOR LIFE and REMAINDERMEN:—

1. *Company—Return of capital out of profits—Void resolution—Companies Act, 1880 (43 Vict. c. 19), ss. 3, 4, 5.*—Where a company purports to return capital to shareholders out of profits, but the special resolution intended to effect that purpose is invalid, the amounts so paid must be treated, as between tenant for life and remaindermen, as income.—*PIERCY, RE, WHITWHEAM v. PIERCY, Neville, J.*, 113; 1907, 1 Ch. 289.

2. *Trust for sale—Postponement of sale—Minerals—Chalk—Capital or income.*—A testator gave his residuary estate upon trust for sale and to invest, and the proceeds to his wife for life, with remainder to his children. There was no power to postpone conversion, nor any express gift of the income before conversion. Part of the residue consisted of land comprised in lease under which the lessee was empowered to dig chalk and to take additional chalk land at the rate of £900 per acre.

Held, that the moneys received and to be received by the trustees from the lessee in respect of additional chalk land taken by him must be treated as income.—*DARNLEY (EARL), RE, CLIFTON v. DARNLEY, Kekewich, J.*, 82; 1907, 1 Ch. 159.

See also *Settled Land, Settlement, Will*.

#### TRADE-MARK:—

*Same mark for different classes of goods—Associated marks—Discretion of the registrar of trade-marks—Registrar's costs of successful application against refusal to register—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), ss. 12 (sub-section 2), 19, 24, 27, 48.*—Section 24 of the Trade-Marks Act, 1905, does not apply to an identical mark proposed to be registered for goods which are not the same or of the same description. The registrar's discretion to impose conditions of registration is subject to the provisions of the Act. He has no power to impose a condition that certain marks should be associated, even though the marks in the hands of different owners or assignees might lead to confusion if the confusion is not due to the similarity of mark or of goods.—*BIRMINGHAM SMALL ARMS CO., RE, Kekewich, J.*, 591.

#### TRADE NAME:—

1. *Descriptive or fancy name—Injunction.*—The plaintiff society, an incorporated society of accountants, was established with a view to affording recognized professional qualifications to its members, who adopted the title of "incorporated accountant." The defendant association was established twenty years later with similar objects, and its members made use of the same title. The defendant Goodway was a member of the defendant association.

Held, that the defendants, by making use of the title "incorporated accountant," were calculated to induce the belief of membership of the plaintiff society, and so were inflicting an injury for which the plaintiff society was entitled to relief by injunction.—*SOCIETY OF ACCOUNTANTS v. GOODWAY, Warrington, J.*, 248; 1907, 1 Ch. 489.

2. *Infringement—Personal name.*—Held, that the mere use by the defendants of the personal name "Dunlop" as part of their trade name was not sufficient to entitle the plaintiffs, another firm trading under a somewhat similar name, in which the word "Dunlop" also formed part, to an injunction, there being no direct evidence that the public were being deceived or that any substantial harm was likely to be done to the party asking for the injunction.—*DUNLOP PNEUMATIC TYRE CO. v. DUNLOP MOTOR CO., H.L.*, 715.

#### TRADE UNION:—

*Levy on members to defray expenses of a representative member in Parliament—Claim for injunction to restrain union from misapplying funds—Claim for a declaration that the rule under which levy was made was illegal—Jurisdiction—Trade Union Act, 1871 (34 & 35 Vict. c. 31), s. 4—Trade Union Amendment Act, 1876 (39 & 40 Vict. c. 22), s. 16.*—A trade union, of which the plaintiff was a member, passed a rule giving power to make a levy to pay the expenses of returning and maintaining representatives in Parliament. The plaintiff brought an action for an injunction to restrain the defendant union from continuing to make the levy and from thus misapplying the funds, and a declaration that the rule under which the levy was made was illegal.

Held, dismissing the plaintiff's appeal, that the application of the union's funds for this purpose would be neither illegal nor *ultra vires*.

*Semble*, the question being one referring to the internal affairs of the union, the court would have no jurisdiction to deal with the matter.—*STEEL v. SOUTH WALES MINERS' FEDERATION, K.B.D.*, 190; 1907, 1 K. B. 361.

#### TRAMWAYS:—

*Notice of intention to lay tramways—Counter-notice by gas company to alter gas mains—Time for giving counter-notice—Arbitration—Tramways Act, 1870 (33 & 34 Vict. c. 78), s. 30.*—Where a tramway company have given notice under section 30 of the Tramways Act, 1870, to a gas company of their intention to lay tramways, the gas company are not bound to give within seven days their counter-notice requiring the tramway company to alter the position of the gas mains in order to entitle themselves to proceed to arbitration in respect of any difference between the two companies as to the necessity for the alteration.—*HASTINGS TRAMWAYS CO. v. HASTINGS AND ST. LEONARDS GAS CO., C.A.*, 12; 1906, 2 Ch. 578.

See also *Rating*.

#### TRUSTEE:—

*Authorized investments—Shares not authorized by settlement distributed in exchange to trustees by company whose shares were authorized investments—"Present state of investment."*—Trustees held shares in an American company as shares "in the present state of investment" at the date of the settlement. Subsequently the American company distributed to its shareholders shares in other companies in exchange for certain of its own shares which it cancelled.

Held, that the exchanged shares were not authorized, and that the tenant for life, who was entitled under the settlement to certain benefits, in addition to income arising out of authorized investments, was not entitled to the benefits arising out of the holding by the trustees of the exchanged shares.

*Re Smith* (1907, 2 Ch. 667) commented on.—*ANSON, RE, LOVELACE v. ANSON, Kekewich, J.*, 686.

See also *Solicitor*.

#### VENDOR and PURCHASER:—

1. *Specific performance—Defect in title—Repudiation of contract after decree for specific performance—Will proved in Scotland—Examined copy—Evidence—Lord Brougham's Act (14 & 15 Vict. c. 99).*—A decree for specific performance does not take away the right of a purchaser to repudiate the contract for sale, but he must obtain the leave of the court to do so and must act promptly. A vendor may remove a defect in title if the purchaser delays taking steps to give effect to his repudiation. A examined copy of a will proved in Scotland is evidence of the contents of such document.—*HALKETT v. EARL OF DUDLEY, Parker, J.*, 290; 1907, 1 Ch. 590.

2. *Specific performance—Offer and acceptance—Unilateral mistake—Defendant acting without advice—Discretion of court—Damages.*—The defendant offered freehold land to the plaintiff at a price based upon a valuation made in 1895, forgetting the existence of a recent valuation at a much higher figure. The plaintiff accepted the offer in terms which were not identical in every respect, but sufficient to constitute an open contract.

Held, that the court, in the exercise of its discretion, would not enforce the contract. Damages awarded.—*HODSON v. THETARD, Joyce, J.*, 462.

#### WATERWORKS:—

1. *Compensation—Injurious affection of land—Completion of works—Construction of statutes—Waterworks Clauses Act, 1847 (10 & 11 Vict. c. 17), ss. 6, 12.*—General words in the heading of a group of sections cannot limit the effect of plain words in one of the sections of the group.

Therefore, sections 6 and 12 of the Waterworks Clauses Act, 1847, are notwithstanding the heading of the group of sections to which they belong, to be construed as providing for compensation to landowners in respect of the injurious affection of their lands by the taking of water not only during the construction of the works but after their completion.—*FLETCHER v. BIRKENHEAD CORPORATION, C.A.*, 171; 1907, 1 K. B. 205.

2. *Supply of water—"Domestic purposes"—Motor-car used by doctor in his practice—Waterworks Clauses Act, 1863 (26 & 27 Vict. c. 93), s. 12.*—Section 12 of the Waterworks Clauses Act, 1863 (26 & 27 Vict. c. 93), enacts: "A supply of water for domestic purposes shall not include a supply of water for cattle or for horses or for washing carriages where such horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens or for fountains or for any ornamental purpose."

Held, that a doctor who used a motor-car in his practice was not liable under the above section to pay a special rate for water used by him in connection with his motor-car.—*HARROGATE CORPORATION v. MACKAY, K.B.D.*, 607.

See also *London*.

#### WILL:—

1. *Ademption—Legacy—Specific gift—Wills Act, 1837 (7 Will. 4 & 1 Vict. c. 26), s. 24.*—A testator by his will bequeathed the



interest on his money invested in a certain security to his wife for her life. During the testator's life a fresh security was substituted under statutory powers for the security in question, which was held by the testator at the date of his will.

Held, that the substituted security did not pass under the bequest, the will speaking from the testator's death.

Held, also, that even if a contrary intention was shown in the will, so as to exclude the operation of section 24 of the Wills Act, the bequest was nevertheless adeemed, the substituted security not being substantially the same as the original security.—*SLATER, RE, SLATER v. SLATER, C.A., 426; 1907, 1 Ch. 665.*

2. *Ademption—Specific bequest—Parol declaration of trust.*—A testator, having varied or re-invested the proceeds of certain investments which had been specifically bequeathed by his will to his wife, made frequent declarations in his lifetime that the substituted property was or would be his wife's property after his death.

Held, that this did not amount to a declaration of trust.—*STALLON, RE, STALLON v. STALLON, Joyce, J., 626.*

3. *Annuities—Trust to pay—Whether charged on corpus—Continuing charge on income—Construction.*—A testatrix devised and bequeathed her real and the residue of her personal estate on trust for conversion, and out of the resulting income to pay certain annuities, and subject thereto on trust to pay the income to J. T. for life, and after her death to pay certain legacies, and subject to the trusts aforesaid to hold the trust premises for certain persons in equal shares absolutely.

Held, that "subject thereto" and "subject to the trusts aforesaid" must be taken to mean subject to payment of the annuities in the said will named, that such annuities were a charge on the current income of each year, and that so far as such income was insufficient the annuities must fail.—*BIGGE, RE, GRANVILLE v. MOORE, Neville, J., 410; 1907, 1 Ch. 714.*

4. *Annuity—Direction to purchase annuity of specified amount—Death of annuitant before probate—Right to value of annuity—Date of commencement of annuity.*—A gift in a will of an annuity of a specified amount to be purchased is not invalidated by the death of the annuitant after the death of the testator but before probate, and the annuitant's legal personal representatives are entitled to the sum which, at the date of the testator's death, would have been required to purchase the annuity.—*ROBBINS, RE, ROBBINS v. LEGGE, C.A., 446; 1907, 2 Ch. 8.*

5. *Bequest of book-debts—Balance on business account at bank—Construction.*—A bequest of the "effects used in the business carried on by me . . . and all book-debts owing to me, and the benefit of all contracts entered into by me in respect of the said business at the time of my decease."

Held, not to include a balance on the business account at the bank.—*BEN HAIGH, RE, Parker, J., 343.*

6. *Bequest of residue—Gift over on death of legatee—Period of division—Life estate or absolute interest.*—A bequest of residue to legatees, with a subsequent gift over to their children in case of death; held, that death meant death in the lifetime of the testatrix, and that the legatees, having survived her, were absolutely entitled to the residue.—*REEVES, RE, EDWARDS v. REEVES-HUGHES, Joyce, J., 325.*

7. *Conditional gift of house—Residing on the premises during lifetime—Remaining unmarried—Forfeiture.*—A testator gave a leasehold house to a legatee for life subject to her residing there during her lifetime. The gift was also made conditional on the legatee remaining single. After the testator's death the legatee married, and lived in another house, though she still continued to occupy one room in the house in question.

Held, that the legatee did not reside within the meaning of the condition.

Held, also, that the two conditions must be read together; and, so read, the gift was subject to the legatee residing so long as she remained unmarried; and that, having married, the condition as to residence no longer applied.—*WRIGHT, RE, MOTT v. ISSITT, Kekewich, J., 47; 1907, 1 Ch. 231.*

8. *Construction—"Born in my lifetime"—Child en ventre sa mère—Cutting down estate to life estate.*—*Prima facie*, for the purposes of devolution of property, words used limiting the estate to be taken must be construed according to their ordinary meaning.

Held, therefore, that a devise to a child "living in my (the testator's) lifetime" ought not to be construed as applying to a child *en ventre sa mère* at the time of the testator's death and subsequently born alive. If, as the Court of Appeal held, *per Cozens-Hardy, L.J.*, that "as a general rule of construction the word child living at or born at a particular date includes a posthumous child in the absence of any context indicating a contrary intention," such a rule must be limited to cases where it is necessary for the benefit of the unborn child that the language used should be strained to prevent injustice being done to the child, and

to bring it within the motive and reason of the gift.—*VILLAR v. GILBEY, H.L., 341; 1907, A. C. 139.*

9. *Construction—Legacies—Vested or contingent—Severance of fund—Interim income—Inclusion of illegitimate children by implication.*—Where a legacy is given followed by a direction that it is to be paid to the legatee on his attaining the age of twenty-five, the legacy vests immediately, and the time of payment only is postponed; if it is further accompanied by a direction to set apart a fund to answer the bequest it carries income or interest from the time of the severance of the fund, and if there is no gift over in the event of the legatee's dying under the age of twenty-five it becomes payable immediately upon the legatee's attaining the age of twenty-one. Under a bequest in a will to grandchildren, the illegitimate children of a daughter were allowed to participate.—*COUTURIER, RE, Joyce, J., 342; 1907, 1 Ch. 470.*

10. *Construction—Married daughter "to retain" name of testator—Forfeiture clause—Validity.*—A testator directed that in the event of any of his daughters marrying, such daughter should retain the name of G. as an addition to the surname of her husband, and in the event of her failing to do so she should forfeit all benefit under the will.

Held, that, without further directions as to the manner in which the surname should be used, the forfeiture clause was void for uncertainty.—*GASSIOT, RE, BROUGHAM v. ROSE-GASSIOT, Warrington J., 570.*

11. *Construction—Power to postpone conversion of estate—Property not actually producing income—Tenant for life and remainderman.*—A testator devised and bequeathed his residuary real and personal estate to trustees upon trust for sale and conversion, and upon trust to pay the income of the residuary estate to his widow for life, with remainder over. The will contained a power in the usual form authorizing the trustees to postpone conversion of his estate, and provided that "no reversion or other property not actually producing income which shall form part of my estate shall, under the doctrine of constructive conversion or otherwise, be treated as producing income or as entitling any party to the receipt of income." Part of the testator's estate consisted of a sum of money secured by an indenture of mortgage which contained a covenant by the mortgagor to pay the principal with interest from the date of the loan, on the happening of an event which occurred several years after the death of the testator.

Held, that the tenant for life was entitled to an apportioned part of the interest.—*LEWIS, RE, DAVIES v. HARRISON, Warrington, J., 531.*

12. *Construction—Words of futurity—Gift to children living at testator's death—Event of child predeceasing testator leaving child or children surviving testator—Son dead at date of will leaving children—Substitutional gift.*—By his will a testator, after giving certain legacies to the children of a deceased son, A. W., gave the residue of his estate upon trust "for all or any of my children (except one son B.) who shall be living at my death." This clause was immediately followed by a proviso that in case "any one or more of my children (other than B.) shall predecease me, leaving any child or children living at my death, then such child or children of my deceased child (other than B.) shall take, and if more than one in equal shares, the share which his, her, or their parent would have taken if such were living and over the age of twenty-one at my death."

Held, restoring the decision of *Joyce, J.*, that the words "shall predecease me" must be construed in their natural or ordinary meaning, and that the children of A. W., who was dead at the date of the will, did not take under the proviso.—*GORRINGE, RE, GORRINGE v. MAHLSTEDT, H.L., 497; 1907, A. C. 225.*

13. *Future gift—Gift at thirty-five—Discretionary trust of intermediate income—Vesting.*—A testator gave a third of his residuary estate upon trust to pay the income or such part thereof as his trustees should think fit to his son for his advancement or benefit by equal weekly instalments until he should attain the age of thirty-five years, and then to pay him the corpus.

Held, that upon the death of the testator the son took an immediate vested interest, although he had not then attained the age of thirty-five.—*WILLIAMS, RE, WILLIAMS v. WILLIAMS, Neville, J., 68; 1907, 1 Ch. 180.*

14. *General power of appointment—Section 27 of Wills Act, 1837 (1 Vict. c. 26).*—A testatrix at the time of her death had two general powers of appointment by will. By her will she bequeathed to her sisters, or the survivors or survivor of them, all stocks, shares, and securities which she possessed or to which she was entitled, but subject to her husband's life interest therein; and she desired that after her husband's death the said stocks, shares, and securities should become the absolute property in equal proportions of her said sisters.

Held, that the will operated so as to exercise the powers of

appointment by virtue of section 27 of the Wills Act, 1837 (1 Vict. c. 26).—*JACOB, RE, MORTIMER v. MORTIMER, Parker, J.*, 249; 1907, 1 Ch. 445.

15. *Gift to tenant for life—Then to next-of-kin—Time of ascertaining class.*—A testator bequeathed property to his nephew for life, and in certain events which happened "for such person or persons as on the death of my nephew will be entitled to as my next-of-kin under the statute for the distribution of intestates' estates."

Held, that the class to take was the next-of-kin at the death of the testator.—*WILSON, RE, WILSON v. BATCHELOR, Parker, J.*, 266; 1907, 1 Ch. 450.

16. *Interest—Tenant for life and remaindermen—Hazardous securities—Power to trustees to retain.*—A mere power to trustees to retain investments standing alone is sufficient to take the case out of the rule laid down in *Howe v. Earl of Dartmouth* (7 Ves. 137), and the tenant for life is entitled to the income of the securities so retained.—*BATES, RE, HODGSON v. BATES, Kekewich, J.*, 27; 1907, 11 Ch. 22.

17. *Power of appointment—Condition imposed on exercise of power—Exercise by will—Sufficient reference to power.*—Where a power of appointment is given subject to a condition that it shall not be exercised by will unless such will "expressly purports to exercise such power," a bequest in a will of all the residue of the personal estate possessed by the testator or over which he may have any "disposing power," is a good exercise of such power of appointment.—*WATERHOUSE, RE, WATERHOUSE v. RYLEY, Joyce, J.*, 290. See also *Charity, Probate*.

WORKMEN'S COMPENSATION.—See Master and Servant.

#### ADDITIONAL CASES REPORTED IN "THE SOLICITORS' JOURNAL AND WEEKLY REPORTER" ON OCTOBER 19th AND 26th.

##### APPEAL:—

*Extension of time—Mistake of legal adviser—R. S. C. LVIII. 15.*—The fact that the legal adviser of a party thought that it was impossible on the facts of the case to appeal from an order is not a special circumstance for subsequently extending the time for appealing.—*NICHOLSON v. PIPER, C.A.*, 823

##### COMPANY:—

*Contributory—Transfer of shares to escape liability—Equity between the parties to the transfer.*—Where a transfer of shares to a pauper by a contributory to a company, made for the purpose of evading liability, is sought to be set aside by the company, the intention to make an out-and-out transfer is not a complete test, but the court will also take into consideration the equity between the parties to the transaction as to whether the transaction is *bond fide* or merely colourable.—*DISCOVERERS FINANCE CORPORATION, RE, Parker, J.*, 825

##### ELECTRIC LIGHTING:—

*Supply of energy—Agreement—Default—Penalty—Right to sue for damages.*—Where there is an agreement to supply electric lighting, an action for damages lies on failure of the supply, and the remedy is not confined to suing for the statutory penalty.—*MORRIS & BASTERT v. LOUGHBOROUGH CORPORATION, C.A.*, 824

##### INJUNCTION:—

*Trespass—Mother and son—Parental obligations—Grave circumstances—Discretion.*—A son, aged forty-nine, who had run through all his interest under his father's will insisted on visiting his widowed mother's house and living there. In an action by the mother against the son for an injunction to restrain the son from continuing to annoy her, evidence was given that the son's conduct had seriously affected her health.

Held, that as a mother was under no obligation to maintain a son who was grown up and capable of earning his own living the question whether an injunction should issue was within the discretion of the judge, and that the circumstances giving rise to the application for an injunction were here so grave as to warrant the injunction being granted.

*Waterhouse v. Waterhouse* (22 T. L. R. 195) considered.—*STEVENS v. STEVENS, K.B.D.*, 825.

##### LOCAL GOVERNMENT:—

*Building—Plans of drainage—Approval by local authority—Action for malicious refusal.*—An action for damages will not lie against a local authority for maliciously refusing to approve of plans for the drainage of a house in their district.—*DAVIS v. BROMLEY CORPORATION, C.A.*, 823

##### POOR RATE:—

*Railway—Relief lines—Valuation—Directly or indirectly productive.*—Relief lines, for rating purposes, must be regarded as directly productive and not as indirectly productive.—*TAFF VALE RAILWAY AND CARDIFF UNION, RE, C.A.*, 824

##### SHERIFF:—

*Execution—Money and bank notes—Seizure—Death of judgment debtor—Administration of insolvent estate—Judgments Act, 1838 (1 & 2 Vict. c. 110), s. 12.*—Until the sheriff seizes, under a writ of *f. fa.*, money or other choses in action specified in section 12 of the Judgments Act, 1838, the writ does not charge or give any right over them. After the sheriff had seized certain goods of the judgment debtor in his house under a writ of *f. fa.*, the debtor, unknown to the sheriff, placed certain bank notes in a piece of furniture which the sheriff had seized. The debtor died while the sheriff was in possession, and an order was made for the administration of his estate in bankruptcy under section 125 of the Bankruptcy Act, 1883. The sheriff then claimed the notes.

Held, that, as the sheriff had not seized the notes during the lifetime of the debtor, and as the property in them no longer remained in the debtor, he had no right to seize them after the debtor's death, and they belonged to the trustee under the administration order.

Judgment of Lawrance, J. (1907, 2 K. B. 437), reversed.—*JOHNSON v. PICKERING, C.A.*, 810.

##### VENDOR and PURCHASER:—

*Trustee's power of sale—Tenant for life a lunatic not so found by inquisition—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 56, sub-section 2, and s. 53—Lunacy Act, 1890 (53 & 54 Vict. c. 5), ss. 116 and 128—Real estate—Consent of tenant for life to sale by trustees—Authority of quasi-committee or receiver of lunatic to give consent.*—The consent of a tenant for life who is a lunatic not so found by inquisition under section 56, sub-section 2, of the Settled Land Act, 1882, to a sale of real estate cannot be exercised by his quasi-committee. The power of consent under the last-named sub-section is not vested in the tenant for life in the character of a trustee, nor is it a check upon the undue exercise of the power in the trustees within the meaning of section 128 of the Lunacy Act, 1890. Trustees under a will having a power of sale over real estate without consent of the tenant for life agreed to sell the real estate to a purchaser. The tenant for life was a lunatic not so found by inquisition. The vendors obtained the consent of the quasi-committee of the lunatic under an order under section 118 of the Lunacy Act, 1890, enabling the quasi-committee to exercise the power of consent required by the Settled Land Act, 1882, s. 56, sub-section 2. The purchaser's objection that the quasi-committee had no power to exercise the consent, and that the vendors had not made out a good title, upheld.

*Re Biggs* (1894, L. R. 2 Ch. 416) applied.—*DE MOLEYNs AND HARRIS'S CONTRACT, RE, Joyce, J.*, 824.



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